

THE FULL TEXT OF THE RULE IS:

65G-2.001	Definitions.
65G-2.003	Length of Licenses.
65G-2.0032	Agency Monitoring and Oversight
65G-2.004	License Violations.
65G-2.0041	License Violations – Fines and Other Disciplinary Actions.
65G-2.005	License Denial, Suspension or Revocation.
65G-2.006	Licensed Capacity.
65G-2.007	General Facility Standards.
65G-2.008	Staff Qualifications and Training Requirements.
65G-2.009	Resident Care and Supervision Standards.
65G-2.010	Fire and Emergency Procedures.
65G-2.011	Foster Care Facility Standards.
65G-2.012	Group Home Facility Standards.
65G-2.013	Residential Habilitation Center Standards.
65G-2.014	Comprehensive Transitional Education Program Standards.
65G-2.015	Siting

65G-2.001 Definitions.

For the purposes of this chapter, the term:

- (1) “Agency” means the Agency for Persons with Disabilities.
- (2) “Applicant” means a person or entity that has submitted a written application to the Agency for the purposes of obtaining an initial residential facility license or renewing an existing residential facility license.
- (3) “Authorized representative” means any person lawfully authorized to make a decision on behalf of a resident.
- (4) “Behavior Analyst” means a person certified under Chapter 65G-4, F.A.C.

(5) “Change of ownership” means an event in which the licensee changes to a different legal entity or in which 45 percent or more of the ownership, voting shares, or controlling interest in a corporation whose shares are not publicly traded on a recognized stock exchange is transferred or assigned, including the final transfer or assignment of multiple transfers or assignments over a 2-year period that cumulatively total 45 percent or greater. A change solely in the management company or board of directors is not a change of ownership.

(6) “Client” is as defined in section 393.063, Florida Statutes.

(7) “Controlling entity” means:

(a) The applicant or licensee;

(b) A person or entity that serves as an officer of, is on the board of directors of, or has a 5-percent or greater ownership interest in the applicant or licensee; or

(c) A person or entity that serves as an officer of, is on the board of directors of, or has a 5-percent or greater ownership interest in the management company or other entity, related or unrelated, with which the applicant or licensee contracts to manage the facility.

(d) This term does not include a voluntary board member.

(8) “Covered person” means any owner, employee, paid staff member, volunteer, or intern of the licensee, any person under contract with the Agency, and any person providing care or support to a client on behalf of the Agency or its providers.

(9) “Direct Care Core Competency Training” means the training described and mandated by the Florida Medicaid Developmental Disabilities Waiver Services Coverage and Limitations Handbook, which is incorporated by reference in Rule 59G-13.083, F.A.C.

(10) “Direct service provider” is as defined in section 393.063, Florida Statutes.

(11) “Emotional harm” means an inferred negative emotional state indicated by agitation, withdrawal, crying, screaming, or other behavioral indicators.

(12) “Entity” means an individual, partnership, association, joint venture, company, sole proprietorship, corporation, limited liability corporation, professional limited liability corporation, or any other form of business.

(13) “Facility” means a foster care facility, group home facility, residential habilitation center, or comprehensive transitional education program as defined in s. 393.063, F.S. The individual centers and units that comprise a comprehensive transitional education program collectively constitute a single “facility”.

(14) “Household members” means residents, live-in staff, family members of live-in staff, and any other person residing in the facility.

(15) “Licensee” means a person or entity which has been issued and currently maintains a non-expired residential facility license from the Agency.

(16) “Live-in staff” means direct service providers whose primary residence is the same as that of the residents for whom they are providing supports and services.

(17) “Local Review Committee (LRC)” means the committee established pursuant to Rule 65G-4.008, F.A.C., to provide oversight of behavioral services to Agency clients in a service region.

(18) “Operator” means the person and/or entity responsible for the management and administration of a facility.

(19) “Parcel” means the same as a "lot" as that term is defined in s. 177.031, F.S.

(20) “Physical harm” means a bodily injury or illness requiring first aid or other medical procedures.

(21) “Regional Office” means the primary office for a service region of the Agency for Persons with Disabilities.

(22) “Repeat violation” means the re-occurrence of a violation of the same standard that occurs within 12 months.

(23) “Resident” means any person with a developmental disability whose primary place of residence is a facility, whether or not such person is a client of the Agency.

(24) “Self-determination” is as defined in section 393.063, Florida Statutes.

(25) “Sexual activity” is as defined in section 393.135, Florida Statutes.

(26) “Sexually aggressive resident” means a minor who is an alleged juvenile sexual offender, as defined in s. 39.01, F.S., or an adult who is documented to have committed an act of sexual abuse as that term is defined in s. 415.102, F.S.

(27) “Survey” means an on-site inspection conducted by Agency staff for the purpose of determining compliance with facility standards.

(28) “Voluntary board member” means a board member of a not-for-profit corporation or organization who serves solely in a voluntary capacity, does not receive any remuneration for services to the corporation or organization, and has no financial interest in the corporation or organization.

(29) “Welfare” means care which promotes those rights enumerated in s. 393.13(3) and (4), F.S.

(30) “Zero Tolerance” means Agency initiated activities, such as education and training, which are intended to prevent occurrences of abuse, neglect, exploitation, and abandonment involving persons with developmental disabilities and facilitate quicker identification and reporting of potentially harmful situations and environments in which abuse, neglect, exploitation, or abandonment may arise.

Specific Authority 393.501(1), 393.067, F.S. Law Implemented 393.067, 393.13, F.S. History--New _____.

(Substantial rewording of Rule 65G-2.003, F.A.C. follows. See Florida Administrative Code for present text.)

65G-2.003 Length of Licenses.

The Agency shall determine the length of a facility’s license based on the following:

- (1) A one year license shall be issued to facilities which meet all applicable licensing criteria.
- (2) Facilities with no current residents but which meet all applicable licensing standards shall be granted a one year license. However, such facilities shall have an on-site licensure review by the Regional Office within 30 days following the admission of their first resident to ensure that they are in compliance with the requirements of Chapter 393 and with the requirements of this rule chapter which could not be previously monitored.
- (3) A one month license shall be issued to facilities that are awaiting administrative actions by the Agency or another state agency in order to complete requirements for Agency licensing. This shall include facilities that are pursuing administrative or judicial appeals of Agency action and facilities which are pending a fire inspection. Subsequent and consecutive one month licenses shall be issued if the matter has not been resolved within the initial one month licensure period.
- (4) A three month license shall be issued to an existing facility which does not have any ongoing Class I violations, but fails to meet all requirements necessary for license renewal, for which no waiver has been approved by the Agency. A three month license shall be accompanied by an approved plan of correction. Failure to complete the actions specified in the plan of correction within the time limit specified in the plan shall result in the denial of the facility’s application for license renewal.
 - (a) If the deficiencies have been corrected at the expiration of the three month license, and there are no other outstanding deficiencies, a one year license shall be issued.

(b) If the previously-identified deficiencies have been corrected but new deficiencies are identified, a second three month license may be issued.

(c) A third consecutive three month license shall only be granted at the approval Agency's Director or the Director's designee and shall only be granted if the licensee has made substantial progress to correct the facility's remaining deficiencies. If the facility is not in full compliance with all licensing standards prior to the expiration of their third consecutive three month license, the facility's application for license renewal shall be denied.

(5) A license shall not be issued to any facility whose license has been suspended on an emergency basis.

(6) The issuance of a license does not constitute a waiver of any statutory or rule violations by the licensee and does not prevent the Agency from seeking administrative sanctions against the licensee for violations that occurred during the term of previous licenses, up to a period of two years, for the same facility.

Specific Authority 393.501(1), 393.067, F.S. Law Implemented 393.067, F.S. History—New 8-13-78, Formerly 10F-6.05, 10F-6.005, 65B-6.005, F.A.C. Amended _____.

65G-2.0032 Agency Monitoring and Oversight.

(1) The Agency shall conduct a survey of each facility prior to the issuance of an initial license or the renewal of an existing license. In addition, the Agency shall conduct ongoing surveys of each facility, either unannounced or announced, in order to ensure the facility is in full compliance with the applicable requirements of Chapter 393, F.S. and the administrative rules adopted pursuant to Chapter 393, F.S. For ongoing surveys, Agency staff shall utilize the Facility Inspection Form APD 2014-02 (effective April 1, 2014), which is incorporated herein by reference. A copy of this form may be obtained from the Regional Office. The Agency may temporarily suspend surveys for a specific time or location if the Agency determines that:

(a) A recent, impending, or ongoing disaster or emergency situation has made the surveys unsafe or impossible;

(b) The facilities identified have no current residents, and may be surveyed on a less frequent basis; or

(c) Surveys should be suspended within a designated area or timeframe to promote the health, safety, or welfare of the public.

(2) Frequency of Surveys. Each facility shall be surveyed by Agency staff on at least a monthly basis. The Agency may survey facilities on a more frequent basis in order to investigate complaints, in situations where it is known or suspected that the facility is not in full compliance with Chapter 393, F.S. or any administrative rules adopted pursuant to Chapter 393, F.S., or in situations where the Agency has reason to believe that the health, safety, or welfare of residents may be at risk.

(3) Licensees and facility employees must permit any Agency staff or designated agent of the State of Florida, who presents proper State of Florida-issued identification, to enter and inspect any part of any facility building or to inspect records relating to the operation of the facility or the provision of client care at any time that facility staff, management, owners, directors, or residents are present in the facility. A violation of this subsection shall constitute a Class II violation.

Specific Authority ss. 393.501(1) and 393.067, F.S. Laws Implemented s. 393.067, F.S. History–New _____.

65G-2.004 License Violations.

(1) NOTICE OF NONCOMPLIANCE. The Agency shall issue a notice of noncompliance as provided under s. 120.695, FS, in response to the first occurrence of a Class II or III violation that is not corrected prior to the completion of the survey which revealed the aforementioned violation. Within 15 days following receipt of a Notice of Noncompliance, the licensee must submit a written corrective action plan, to the regional office. Failure to submit a corrective action plan within the required timeframe or repeat occurrences of Class II or III violations shall result in the imposition of disciplinary action as described in 65G-2.0041(4)(b) or (c). For the purposes of this subsection, a first occurrence of a Class II or III violation refers to those violations which have not been previously observed and cited by Agency staff within the past 12 months.

(2) CORRECTIVE ACTION PLANS. The licensee must develop and submit to the Agency a corrective action plan within 15 days following the receipt of a Notice of Noncompliance. The corrective action plan shall specify the actions the facility will take to correct each of the violations identified and to comply with the applicable licensing requirements, the name of the staff person(s) responsible for completing each action, and a timeframe for accomplishing each action. All action taken to correct a violation shall be documented in writing by the licensee.

Failure to comply with the corrective action plan shall result in the imposition of disciplinary action as described in 65G-2.0041(4)(b) or (c). The Agency shall reject any corrective action plan that fails to identify all of the information described above. If the Agency rejects a corrective action plan, the Agency shall notify the licensee in writing of the reasons for rejection and shall state that the licensee has 10 days from receipt of the notification to submit an amended corrective action plan.

(3) MORATORIUMS. A moratorium on the admission of new clients into a facility may be imposed pursuant to the criteria stated in section 393.0673(6), Florida Statutes.

(4) RELINQUISHMENT AND LICENSE EXPIRATION.

The expiration or relinquishment of a license that is pending administrative sanctions does not render the administrative sanctions moot. The Agency may continue to seek administrative sanctions against a licensee for violations that occurred during a licensee's management or oversight of a facility even if the licensee ceases to own or lease the facility, operate the facility, or provide services in the facility after the violations have occurred.

Specific Authority 393.501(1), 393.067, 393.0673, F.S. Law Implemented ss. 393.067, 393.0673, F.S. History—New

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65G-2.0041 License Violations –Disciplinary Actions

(1) DETERMINATION OF DISCIPLINARY ACTION INVOLVING ABUSE, NEGLECT, OR EXPLOITATION.

In determining whether to pursue disciplinary action in response to verified findings by the Department of Children and Families of abuse, neglect, or exploitation involving the licensee or direct service providers rendering services on behalf of the licensee, the Agency will consider the licensee's corrective action plan and other actions taken to safeguard the health, safety, and welfare of residents upon discovery of the violation. Considerations shall include the following:

(a) Whether the licensee properly trained and screened, in compliance with s. 393.0655, F.S., the staff member(s) responsible for the violation;

(b) Whether, upon discovery, the licensee immediately reported any allegations or suspicions of abuse, neglect, or exploitation to both the Florida Abuse Hotline as well as the Agency;

(c) Whether the licensee fully cooperated with all investigations of the violation;

(d) Whether the licensee took immediate and appropriate actions necessary to safeguard the health, safety and welfare of residents during and after any investigations.

(e) Whether the occurrence is a repeat violation and the nature of such violation.

(f) The specific facts and circumstances before, during, and after the violation.

(2) FACTORS CONSIDERED WHEN DETERMINING SANCTIONS TO BE IMPOSED FOR A VIOLATION. The Agency shall consider the following factors when determining the sanctions for a violation:

(a) The gravity of the violation, including whether the incident involved the abuse, neglect, exploitation, abandonment, death, or serious physical or mental injury of a resident, whether death or serious physical or mental injury could have resulted from the violation, and whether the violation has resulted in permanent or irrevocable injuries, damage to property, or loss of property or client funds

(b) The actions already taken or being taken by the licensee to correct the violations, or the lack of remedial action.

(c) The types, dates, and frequency of previous violations and whether the violation is a repeat violation.

(d) The number of residents served by the facility and the number of residents affected or put at risk by the violation.

(e) Whether the licensee willfully committed the violation, was aware of the violation, was willfully ignorant of the violation, or attempted to conceal the violation.

(f) The licensee's cooperation with investigating authorities, including the Agency, the Department of Children and Families, or law enforcement.

(g) The length of time the violation has existed within the home without being addressed, and

(h) The extent to which the licensee was aware of the violation.

(3) ADDITIONAL CONSIDERATIONS FOR CLASS I VIOLATIONS, REPEATED VIOLATIONS OR FOR VIOLATIONS THAT HAVE NOT BEEN CORRECTED.

(a) Subject to the provisions of rule 65G-2.0041(1), in response to a Class I violation, the Agency may either file an Administrative Complaint against the licensee or deny the licensee's application for renewal of licensure.

(b) A second Class I violation, occurring within 12 months from the date in which a Final Order was entered for an Administrative Complaint pertaining to that same violation, shall result in the imposition of a fine of \$1000

per day per violation, revocation, denial or suspension of the license, or the imposition of a moratorium on new resident admissions.

(c) The intentional misrepresentation, by a licensee or by the supervisory staff of a licensee, of the remedial actions taken to correct a Class I violation shall constitute a Class I violation. The intentional misrepresentation, by a licensee or by the supervisory staff of a licensee, of the remedial actions taken to correct a Class II violation shall constitute a Class II violation. The intentional misrepresentation, by a licensee or by the supervisory staff of a licensee, of the remedial actions taken to correct a Class III violation shall constitute a Class III violation.

(d) Failure to complete corrective action within the designated timeframes may result in revocation or non-renewal of the facility's license.

(4) SANCTIONS. Fines shall be imposed, pursuant to a final order of the Agency, according to the following three-tiered classification system for the violation of facility standards as provided by law or administrative rule. Each day a violation occurs or continues to occur constitutes a separate violation and is subject to a separate and additional sanction. Violations shall be classified according to the following criteria:

(a) Class I statutory or rule violations are violations that cause or pose an immediate threat of death or serious harm to the health, safety or welfare of a resident and which require immediate correction.

1. Class I violations include all instances where the Department of Children and Families has verified that the licensee is responsible for , abuse, neglect, or abandonment of a child or abuse, neglect or exploitation of a vulnerable adult. For purposes of this subparagraph, a licensee is responsible for the action or inaction of a covered person resulting in abuse, neglect, exploitation or abandonment when the facts and circumstances show that the covered person's action, or failure to act, was at the direction of the licensee, or with the knowledge of the licensee, or under circumstances where a reasonable person in the licensee's position should have known that the covered person's action, or failure to act, would result in abuse, neglect, abandonment or exploitation of a resident.

2. Class I violations may be penalized by a moratorium on admissions, by the suspension, denial or revocation of the license, by the nonrenewal of licensure, or by a fine of up to \$1,000 dollars per day per violation. Administrative sanctions may be levied notwithstanding remedial actions taken by the licensee after a Class I violation has occurred.

3. All Class I violations must be abated or corrected immediately after any covered person acting on behalf of the licensee becomes aware of the violation other than the covered person who caused or committed the violation.

(b) Class II violations are violations that do not pose an immediate threat to the health, safety or welfare of a resident, but could reasonably be expected to cause harm if not corrected. Class II violations include statutory or rule violations related to the operation and maintenance of a facility or to the personal care of residents which the Agency determines directly threaten the physical or emotional health, safety, or security of facility residents, other than Class I violations.

1. Class II violations may be penalized by a fine of up to \$500 dollars per day per violation.

If four or more Class II violations occur within a one year time period, the Agency may seek the suspension or revocation of the facility's license, nonrenewal of licensure, or a moratorium on admissions to the facility.

2. A fine may be levied notwithstanding the correction of the violation during the survey if the violation is a repeat Class II violation.

(c) Class III violations are statutory or rule violations related to the operation and maintenance of the facility or to the personal care of residents, other than Class I or Class II violations.

1. Class III violations may be penalized by a fine of up to \$100 dollars per day for each violation.

2. A repeat Class III violation previously cited in a notice of noncompliance may incur a fine even if the violation is corrected before the Agency completes its survey of the facility.

3. If twenty or more Class III violations occur within a one year time period, the Agency may seek the suspension or revocation of the facility's license, nonrenewal of licensure, or moratorium on admissions to the facility.

(d) The aggregate amount of any fine imposed pursuant to this section shall not exceed \$10,000.

Specific Authority 393.501(1), 393.067, 393.0673, F.S. Law Implemented 393.067, 393.0673, F.S. History—New

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(Substantial rewording of Rule 65G-2.005, F.A.C. follows. See Florida Administrative Code for present text.)

65G-2.005 License Denial, Suspension, or Revocation.

(1) A license to operate a residential facility is not assignable and is valid only for the entity, premises, and purposes specified in the license.

(2) A change of licensee or a move of the facility to another location shall result in the revocation of the license.

Specific Authority 393.501(1), 393.067, 393.0673, F.S. Law Implemented 393.067, 393.673, F.S. History–New 8-13-78, Formerly 10F-6.03, 10F-6.003, 65B-6.003, F.A.C. Amended _____.

(Substantial rewording of Rule 65G-2.006, F.A.C. follows. See Florida Administrative Code for present text.)

65G-2.006 Licensed Capacity.

(1) The maximum number of residents that may be served by a facility shall be determined based upon the size of the physical facility, the number of staff and their qualifications, the type of facility license issued, and any limitations imposed by the Fire Marshal, Department of Health, and other relevant state and local authorities. The licensed capacity shall be noted on the license.

(2) The maximum number of residents who may be served by a facility shall be reassessed annually as part of the license renewal process. The Agency reserves the right to decrease the licensed capacity of a facility based upon an annual review of the individual needs of each client or resident, the level of active and appropriate supervision, and the background, experience, and skill of the direct service providers. The Agency shall also consider incident reports and violations that occurred or were identified during the current or preceding licensure year, which could be reasonably attributable to the number of residents served by the facility.

(3) The types of residents that may be served by a facility shall be determined on the basis of construction, design and use of the facility, the type of programs and services offered by the facility, the number and qualifications of the personnel employed by the facility, and the level of care and services needed by residents.

(4) If a licensee wishes to increase or decrease the capacity of the facility, he or she shall notify the Regional Office in writing at least 30 days prior to the proposed change. Increases in licensed capacity shall not be granted unless the licensee has successfully passed a fire inspection that reflects the proposed capacity. Requests for capacity increases will require the facility to be resurveyed by Agency staff and, if approved, an amended license shall be issued setting forth the new maximum capacity for the remainder of the previously existing license.

(5) If a licensee wishes to change the types of residents that may be served in the facility, as specified within their most recent application for licensure, he or she shall notify the Regional Office in writing 30 days prior to the proposed change. The facility shall be resurveyed if changes in the types of residents served require additional modification to the home or staffing requirements, and if approved, an amended license shall be issued by the Agency.

(6) The Agency's evaluation of the type or maximum number of residents served by a facility does not constitute a determination that the licensed facility is being operated in a safe or effective manner, a determination that the facility is acting in full compliance with the licensing requirements of this chapter, or a determination that any individual staff members employed by the facility are qualified or properly trained to serve the facility's residents.

(7) Exceeding a facility's maximum authorized capacity or housing a resident type not authorized for the facility shall constitute a Class III violation.

Specific Authority 393.501(1), 393.067, F.S. Law Implemented 393.067, F.S. History—New 8-13-78, Formerly 10F-6.02, 10F-6.002. 65B-6.002, F.A.C. Amended _____

(Substantial rewording of Rule 65G-2.007, F.A.C. follows. See Florida Administrative Code for present text.)

65G-2.007 General Facility Standards.

(1) FACILITY NAME AND IDENTIFICATION.

(a) No residential facility may be referred to or use names such as "nursing facility" or "rest facility" unless it is a nursing facility licensed under Chapter 400, F.S.

(b) No residential facility may use the word "school" in its name unless there is a state or county certified educational program operated within the facility.

(c) No residential facility may erect any exterior sign which would label the residents or functions of the facility by indicating that the facility serves persons with developmental disabilities.

(d) A violation of this subsection shall constitute a Class III violation.

(2) FACILITY AND SITE REQUIREMENTS.

(a) Ramps, doors, corridors, toileting and bathing facilities, furnishings, and equipment shall be designed to accommodate resident needs and disabilities.

(b) Those facilities serving residents with physical impairments may not have architectural barriers that prevent the resident's participation in everyday facility activities.

(c) Each public utility customer who requires medically essential service is solely responsible for any backup equipment or power supply and a planned course of action in the event of a power outage or interruption of service in accordance with s. 366.15, F.S.

(d) Mobile homes or manufactured homes, as described in s. 320.01(2), F.S., may not be used for foster care facilities, group home facilities, or residential habilitation centers.

(e) The facility shall provide safe and sanitary housing. Floors, walls, ceilings, windows, doors, and all parts of the structures shall be of sound construction, properly maintained or in working order, and kept clean as necessary to ensure the health and safety of the facility's residents.

(f) All interior doors with locks shall be readily opened from the inside of the room.

(g) Exterior doors may utilize delayed egress systems provided such systems meet all of the following conditions:

1. Egress is prevented for a maximum of 30 seconds;

2. Approval of the system by the local authority having jurisdiction over fire safety or the State Fire Marshall.

3. Locks are automatically disengaged in the event of a fire, power outage, or activation of the fire alarm.

(h) A violation of this subsection shall constitute a Class II violation.

(3) LIVING AND DINING AREAS.

(a) A minimum of 35 square feet of combined living and dining area shall be provided per household member.

(b) The living area shall be provided with an adequate number of appropriate furnishings for the usual functions of daily living. These furnishings shall be sturdily constructed and of satisfactory design to meet the daily needs of household members.

(c) The dining area furnishings shall be adequate in number, well-constructed and of satisfactory design to meet the daily needs of household members.

(d) Facilities shall not charge residents an additional fee for television or internet services provided in a common area.

(e) A violation of this subsection shall constitute a Class III violation.

(4) KITCHEN.

(a) The kitchen shall be large enough to accommodate the equipment and personnel needed to prepare and properly serve the required number of meals.

(b) The kitchen shall have equipment, utensils, and supplies to properly store, prepare and serve the required number of meals. Chipped, cracked and otherwise unsafe utensils or dishware shall not be used. The kitchen shall have sufficient supplies of dish soap, paper towels, napkins, etc. supplied and paid for by the facility.

(c) A violation of this subsection shall constitute a Class III violation.

(5) BEDROOMS.

(a) Bedrooms shall be arranged so that resident privacy is assured. Bedroom doors shall not have vision panels except as may be necessary for residents who require visual supervision due to documented behavioral or medical issues. Direct access to a resident's bedroom from a common area is required. Sole access to a resident's bedroom shall not be through a bathroom or other bedroom.

(b) For facilities licensed prior to the date of this rule revision, a maximum of four residents are allowed to share a bedroom. Facilities receiving an initial license after the date of this rule revision are allowed to have a maximum of two residents sharing a bedroom.

(c) Single bedrooms for residents shall provide at least 80 square feet of usable floor space. Multi-occupancy bedrooms used by residents shall provide at least 60 square feet per person of usable floor space. Usable floor space shall include only those areas with vertical wall heights of five feet or more and does not include closet areas.

(d) Bedroom arrangements shall be compatible with the physical needs of the residents. Beds for residents shall be located so as to avoid drafts from windows and excessive heat from heat sources.

(e) Dresser drawers, a wardrobe, or an enclosed closet space adequate to store the belongings of each resident shall be provided commensurate with any physical or behavioral limitations of the resident. Additional storage space shall be available elsewhere in the facility to accommodate residents' luggage and large or seldom used personal belongings. Captain-style beds with drawers installed as part of the bed frame may be substituted or used as dresser drawers.

(f) Each resident shall have an individual bed. Futons, hammocks, and sleeper sofas shall not be used as permanent bedding. Each resident's bed shall have a clean, firm, comfortable mattress which is free from fabric tears, holes, odors, loose springs, and noticeable sagging. Beds shall be of suitable dimensions to accommodate

residents who are using them. Bunk beds shall not be used unless appropriate to the functioning level of the residents. If residents use bunk beds, they must be safe and sturdy and not be higher than two tiers. Residents who are not able to climb safely into or out of the top tier without staff assistance shall not be permitted to sleep in the upper tier.

(g) The facility shall offer bedding and linens for each resident. These shall include a suitable pillow, pillowcase, sheets, blanket, and a bedspread or comforter which shall all be clean and in good condition. A mattress cover or waterproof sheet shall be provided if needed by the resident due to allergies, incontinence, or other medical or physical reasons. Bedding shall be appropriate to the season. Bed linens shall be replaced with clean linens at least once each week, or more frequently as required. Residents shall not be permitted to sleep or rest on soiled beds and bed pillows. A resident may choose to purchase their own bedding and linens in order to personalize his or her bedroom. Bedding and linens purchased by the licensee must be available to accommodate the licensed capacity of the home.

(h) Bedroom furnishings for residents shall include adequate shelf space, individual chest or dresser space, draperies or shades commensurate with any physical or behavioral limitations of the resident. Window coverings, including draperies or shades, are not required for skylight windows.

(i) Each resident shall be allowed to decorate his or her private quarters in an individual style that will respect the care of the property and other residents who may share the bedroom.

(j) A violation of this subsection shall constitute a Class III violation.

(6) BATHROOMS.

(a) There shall be at least one toilet, lavatory, and tub or shower, accessible and available for resident use for every three residents in facilities licensed after the effective date of this rule revision. Facilities licensed prior to the effective date of this rule revision, and continuously thereafter shall have no less than one toilet and lavatory for every six residents, and one shower for every eight residents.

(b) Sole access to a resident's bathroom shall not be through another household member's bedroom.

(c) Toilets, tubs and showers used by household members shall provide for individual privacy. A violation of this paragraph shall constitute a Class II violation.

(d) Each resident shall be provided a separate and appropriate place for his/her own toothbrush, towel, and other personal care items.

(e) Bathrooms shall be well ventilated by natural or mechanical methods.

(f) Toilet and bathing area fixtures shall be in good condition and approximate normal patterns found in residential construction, except where special requirements are applicable for residents with physical impairments or for special needs.

(g) The bathroom shall have sufficient supplies of toiletry items such as shampoo, toothpaste, soap, and toilet paper to accommodate resident needs. A resident may choose to purchase his or her own toiletry items based on his or her personal preference. Each client shall be provided a separate and appropriate place for the resident's own toothbrush and towel.

(h) With the exception of paragraph (c), a violation of this subsection shall constitute a Class III violation.

(7) LAUNDRY.

(a) Laundry services, including clothes washing and drying, shall be provided by or available within the facility or accessible to residents through commercial laundry services. If the laundry appliances become inoperable, outside laundry services shall be provided until such time as repairs are made or the appliances are replaced. The facility shall be responsible for the cost of such services.

(b) Laundry soap, fabric softener, bleach, and stain remover shall be supplied for resident use and paid for by the facility.

(c) If laundry services are provided within the facility, the facilities and appliances shall kept free of excessive lint build-up.

(d) A violation of this subsection shall constitute a Class III violation.

(8) HEATING AND COOLING.

(a) Indoor temperature shall be maintained within a range of 68 degrees to 80 degrees, as appropriate for the climate. Temperatures exceeding this range by more than 2 degrees but less than 5 degrees constitute a Class III violation. Temperatures exceeding this range by 5 degrees or more constitute a Class II violation.

(b) The heating apparatus employed shall not constitute a burn hazard to the residents. Violation of this paragraph constitutes a Class II violation.

(c) There shall be no discernible differences between the temperature and humidity of areas within the facility that are used by staff and those areas used by the residents, unless such differences are based on documented resident need or preference. A violation of this paragraph shall constitute a Class III violation.

(d) Temperature variances due to a natural disaster, power outages outside of the licensee's control, or equipment failures that are being repaired in a timely manner that will not endanger the facility's residents shall not be considered violations of this subsection.

(9) LIGHTING. All areas of the facility shall be adequately lighted in accordance with area usage. A violation of this subsection shall constitute a Class III violation.

(10) MAINTENANCE.

(a) The interior and exterior of the facility shall be maintained by the licensee so the health and safety of residents is assured. The facility shall supply and pay for necessary cleaning supplies. A violation of this paragraph shall constitute a Class II violation.

(b) The facility shall be free of unpleasant or noxious odors.

(c) The grounds and any additional buildings on the grounds shall be free of excess debris and maintained in a safe and sanitary condition.

(d) All outdoor garbage and other waste materials shall be kept in covered containers until removed. Containers shall be emptied as often as necessary to prevent public nuisance and health hazards in accordance with all applicable state and local requirements.

(e) Except when restitution is a component of a client's LRC-approved behavior plan, licensees are solely responsible for any costs associated with the repair or replacement of any facility equipment or property which is owned or leased by the licensee when such equipment or property is lost, damaged or destroyed by a resident. Unless the licensee agrees to cover replacement or repair costs, a resident who damages or destroys equipment or property which is owned or leased by himself/herself or other residents of the facility shall be responsible for any costs associated with the repair or replacement of such equipment or property.

(f) With the exception of paragraph (a), a violation of this subsection shall constitute a Class III violation.

(11) MEAL SERVICES. Unless contraindicated by documented medical, behavioral, or dietary requirements for individual residents, the following meal service standards shall apply to all facilities:

(a) Food and beverages shall be of adequate quantity and variety, served at appropriate temperatures, prepared by methods which conserve nutritional value, and served in a form easy for residents to manage and, within reason, in keeping with resident preferences. Within reason, dietary practices in keeping with the religious requirements of the resident's faith group shall be observed at the request of the resident, or the resident's authorized representative.

(b) Residents who are not routinely absent from the facility for work or other purposes must be prepared at least three meals at regular times during each 24-hour period. If a resident is absent from the facility for work or for an approved program during a regular meal time, he or she must be provided a meal at no charge to the resident.

Snacks shall be available and provided by the facility at appropriate times during the day or evening.

(c) Dining and serving arrangements shall provide for a variety of eating experiences and the opportunity for residents to make food selections with guidance.

(d) Meals shall be prepared and served in accordance with the facility's menu.

(e) Menus shall be planned and written, and dated at least two days in advance of consumption. Menus, as served, shall be kept on file for a minimum of one month. Client participation in meal planning is recommended but not required.

(f) When food services are not supervised by a nutritionist, a dietician must be consulted at least annually. Documentation of such consultation and a summary of the dietician's recommendation shall be submitted to the Regional office. A violation of this paragraph shall constitute a Class II violation.

(g) In accordance with the menu, a minimum of two days of fresh food supplies and five days of staple food and drinking water supplies sufficient for all household members shall be available at the facility at all times.

(h) With the exception of paragraph (f), a violation of this subsection shall constitute a Class III violation.

(12) SAFETY REQUIREMENTS.

(a) The facility must have an adequate supply of hot water for bathing and dish washing sufficient to meet the needs of all household members. Hot water accessible to residents must not exceed 120 degrees Fahrenheit (43 degrees Celsius) at the outlet.

(b) Firearms, ammunition, and all other weapons shall be prohibited in licensed facilities unless the facility also serves as the primary residence of the licensee.

(c) All firearms must be stored unloaded. Firearms and ammunition shall be stored separately from each other within locked storage areas. Weapons normally associated with hunting, fishing or recreational target sports, such as bows and arrows, spear guns or slingshot type devices, shall be stored unloaded within locked storage areas not accessible to facility residents. Other weapons normally associated with personal protection such as stun guns or chemical aversive sprays such as Mace or pepper spray shall also be kept in locked storage areas not accessible to facility residents.

(d) All poisonous and toxic compounds and potentially hazardous instruments shall be used with extreme caution. Compounds harmless to human consumption shall be used whenever reasonably possible. Poisonous and toxic compounds shall not be stored in an area which may constitute a hazard to residents. Such items shall be safeguarded and not co-mingled with food items in storage areas or elsewhere. In all cases, such products shall be stored in their original containers or, if transferred to other containers for dispensing purposes, clearly labeled as to the contents and locked in a storage area.

(e) The facility shall provide fencing of at least four feet in height in areas identified by the Agency as hazardous. A hazardous area is that area designated as such by Agency staff at the time of initial licensure. In determining the hazardous area, Agency staff shall consult with the licensee and consider the needs and characteristics of the residents of the facility. A violation of this paragraph shall constitute a Class III violation.

(f) With the exception of paragraph (e), a violation of this subsection shall constitute a Class I violation.

(13) WATER HAZARDS.

(a) Residents who are not proficient swimmers must be supervised by sight and sound at all times when they are within 50 feet of any body of water or water hazard such as pools, hot tubs, canals, creeks, holding ponds, rivers, lakes, swamps or areas subject to flooding. Access to bodies of water or other water hazards must be restricted when supervision is not available. Supervision must be provided by an adult employee of the facility who is responsible for the resident and who is also certified in first aid and CPR.

(b) Residents who are not proficient swimmers shall not be allowed in pools or other bodies of water without wearing a life jacket or approved flotation device, unless engaged in swimming lessons or while under the supervision of a responsible adult capable of assisting with swimming-related emergencies.

(c) All high-risk water-related recreational activities in which residents are participating, such as boating or water sports, must have direct adult supervision.

(d) Pools without filters, such as wading or kiddy pools, are permitted for use by facilities and shall be set up and used in accordance with manufacturer's instructions. Such pools must be emptied and stored away when not in use and filled with clean water before the next use.

(e) All entry points and safety covers must be locked when the pool or spa is not in use.

(f) Swimming pools must be equipped with one of the following life saving devices: ring buoy, rescue tube, flotation device with a rope, or a pole of sufficient length to cover the area of the pool.

(g) A violation of this subsection shall constitute a Class II violation.

(14) SMOKING. In facilities that do not prohibit adult residents or staff from smoking indoors, either through admission criteria, house rules or self-government, smoking shall be permitted only in areas that are designated by the residents. Under no circumstances shall the designated smoking area include indoor common areas shared or accessed by non-smoking residents. Residents shall not be permitted to smoke in bed, except that those confined to bed by infirmity may be permitted to do so only under the visual supervision of staff. Smoking shall not be permitted indoors if any of the residents of the facility are children or possess a medical condition, such as asthma, which would be aggravated by indoor smoking by other household members. A violation of this subsection shall constitute a Class II violation.

(15) ALARMS. Alarms which are activated when an exterior door or window is opened are permitted for use within residential facilities.

(16) SMOKE AND CARBON MONOXIDE DETECTORS. Facilities shall be equipped with smoke and carbon monoxide detectors in good working condition. A violation of this subsection shall constitute a Class II violation.

(17) EDUCATIONAL SERVICES FOR EXCEPTIONAL CHILDREN. Within ten business days after an exceptional student, as described in section 1003.01, Florida Statutes, is admitted by a residential facility, the facility shall provide written notification of the placement to the school district where the student is currently counted for funding purposes under s. 1011.62, F.S. and also to the receiving school district. The facility shall be responsible for enrolling the student in school. A violation of this subsection shall constitute a Class III violation.

(18) FORECLOSURES AND EVICTIONS.

(a) Licensees must provide notification to the Regional office within two business days of receipt of a foreclosure notice involving the property at which the license is maintained.

(b) Licensees must notify the Regional Office within 24 hours upon the receipt of a Notice of Eviction involving the property at which the license is maintained.

(c) A violation of paragraph (a) of this subsection shall constitute a Class II violation. A violation of paragraph (b) of this subsection shall constitute a Class I violation.

(19) OPTIONAL IN-SERVICE TRAINING. The licensee may develop in-service training for family members, guardians or guardian advocates of residents. This training may address topics such as appropriate behavioral

interventions, guardianship, social security benefit issues, or other topics of relevance. Under no circumstances may the licensee, or its contracted trainer or presenter, charge a fee for the provision of such training. A violation of this subsection shall constitute a Class III violation.

(20) WILLFUL OR INTENTIONAL MISTATEMENTS. A licensee or applicant shall not make willful or intentional misstatements, orally or in writing, to intentionally mislead Agency staff, the Department of Children and Families, or law enforcement in the performance of their duties.

(a) Willful or intentional misstatements regarding the health, safety, welfare, abuse, neglect, exploitation, abandonment or location of a resident shall be considered a Class I violation.

(b) All other willful misstatements shall be considered Class II violations.

Specific Authority 393.501(1), 393.067, 393.13(5), F.S. Law Implemented 393.067, F.S. History--New 8-13-78, Formerly 10F-6.08, 10F-6.008, 65B-6.008, F.A.C. Amended _____.

65G-2.008 Staffing Requirements.

(1) The licensee shall employ adequate staff to maintain the facility in a manner that promotes and ensures the health, safety, and welfare of residents, and protects those who are not residents of the facility from any known dangerous behaviors that the residents exhibit. A violation of this subsection shall constitute a Class I violation.

(a) The appropriate number and type of staff employed by the licensee is dependent upon a number of factors including state and/or federal requirements, court orders, the number of residents and their unique service requirements, the competency, training, and education of staff, and the range of services offered. At a minimum, the licensee shall maintain the staffing pattern delineated and described on its most recent application for licensure. A violation of this paragraph shall constitute a Class II violation.

(b) At least one staff person must be present at all times while clients are in the facility unless the licensee has received Agency approval for a specified client to be left alone for limited periods of time during the day or night pursuant to Rule 65G-2.009(6)(b), F.A.C. A violation of this paragraph shall constitute a Class I violation.

(c) Direct service providers shall not be under the influence of alcoholic beverages or illegal controlled substances to the extent their normal faculties are impaired. For purposes of this paragraph “normal faculties” include but are not limited to the ability to see, hear, walk, talk, judge distances, drive an automobile, make judgments, act in emergencies and, in general, to normally perform the many mental and physical acts of daily life. A violation of this paragraph shall constitute a Class I violation.

(d) Direct service providers shall be at least 18 years of age. A violation of this paragraph shall constitute a Class III violation.

(e) Direct service providers must have at least a high school diploma or equivalent. When determining the equivalency of high school diplomas, providers may accept official transcripts, affidavits from educational institutions, and other formal or legal documents that can be reasonably used to determine educational background. Direct service providers who have been hired using the best judgment of the licensee prior to the date of this rule revision, are exempt from this education-related documentation screening requirement. A violation of this paragraph shall constitute a Class III violation.

(f) Prior to beginning employment, direct service providers must have at least one year of experience in a medical, psychiatric, nursing or childcare setting or working with persons with a developmental disability. Successfully completed college, vocational or technical training equal to 30 semester hours, 45 quarter hours, or 720 classroom hours in special education, mental health, counseling, guidance, social work or health and rehabilitative services can substitute for the required experience. Direct service providers hired by the licensee prior to the adoption date of this rule shall be exempt from this requirement. A violation of this paragraph shall constitute a Class III violation.

(g) Direct service providers must be capable of demonstrating effective communication with the residents of the homes as well as other individuals such as waiver support coordinators, Agency staff, family members of residents, and others who routinely interact with residential staff. A violation of this paragraph shall constitute a Class III violation.

(h) Direct service providers must be mentally competent to comprehend, comply with, and implement all requirements provided by law and Agency rule for the provision of services rendered to residents of their facilities. In addition, they must be physically capable of performing duties for which they are responsible. A violation of this paragraph shall constitute a Class II violation.

(2) The licensee must comply with the screening requirements established in s. 393.0655, F.S. and chapter 435, F.S. A violation of this subsection shall constitute a Class I violation.

(3) Licensees are responsible for assuring that all direct service providers who transport clients have a valid driver's license. Direct service providers who are responsible for transporting clients shall not possess driving violations, committed within the past three years, which relate to driving under the influence of alcohol or drugs or any other moving violation(s) which resulted in the suspension or revocation of that direct service provider's license. Direct service providers must obey all traffic laws while transporting residents. A violation of this subsection shall constitute a Class III violation.

(4) On at least an annual basis, all licensees must access the Florida Department of Law Enforcement's Sex Offender/Predator Database for the purposes of identifying database registrants who reside within a one-mile radius of the facility. The licensee shall notify staff of the location of sexual offenders or predators who live within one mile of the facility. A violation of this subsection shall constitute a Class III violation.

(5) If a licensee, direct service provider, volunteer, or any other person working in the facility has been identified as an alleged perpetrator in an active protective investigation of abuse, neglect, or exploitation of a vulnerable adult under Chapter 415, F.S., or abuse, abandonment, or neglect of a child under part II of Chapter 39, F.S., and the protective services investigator states a reasonable suspicion that the abuse, neglect, exploitation or abandonment has occurred, the alleged perpetrator shall be prohibited from being alone with facility residents until the investigation is closed.

(a) The alleged perpetrator may still provide direct services to facility residents if the alleged perpetrator is under the constant visual supervision of another person working in the facility who has not been named as the alleged perpetrator in an ongoing protective investigation.

(b) This subsection is only applicable in situations where the licensee has been made aware of the aforementioned investigation.

(c) A violation of this subsection shall constitute a Class I violation.

(6) All licensees with employees shall develop and maintain the following personnel policies, procedures and records:

(a) Job descriptions for paid staff;

(b) Documentation of all facility staff training, including a record of training dates, training content and trainers, and staff in attendance, shall be kept on file;

(c) Separate personnel records for each full and part-time employee that contain written documentation of the employees' education, qualifications experience, references, background screening, staff training participation, and any disciplinary action taken against the employee; and

(d) A weekly written schedule indicating staff coverage for at least one week in advance. Weekly schedules of actual staff coverage shall be maintained for a six-month period and provided to the Regional Office upon request.

(e) A violation of this subsection shall constitute a Class III violation.

(7) Staff Training Requirements. Written documentation of all required staff training must be maintained by the licensee for at least three years following the receipt of such training and be made available to the Agency upon request.

(a) All direct service providers must complete the Agency's Direct Care Core Competency training within 90 days of first providing services or supports to residents.

(b) All direct service providers hired to work in licensed residential facilities subsequent to the date of this rule revision must complete the Agency's Zero Tolerance training curriculum on the detection, prevention, and reporting of abuse, neglect, and exploitation prior to providing direct services. The Zero Tolerance curriculum, effective June 1, 2014, consists of the Zero Tolerance Classroom Participant's Manual, the Zero Tolerance Facilitator's Guide and the "Zero Tolerance – a statewide initiative to end abuse, neglect, and exploitation," (overhead Power Point) which are hereby incorporated by reference. A copy of the Zero Tolerance curriculum materials may be obtained from the Agency' Central Office. In addition, all direct service providers must complete a refresher Zero Tolerance training course every three years. Staff must be able to successfully demonstrate their knowledge of required abuse reporting procedures both in theory and in practice.

(c) All direct service providers must complete a basic first aid course, including instruction in the abdominal thrust maneuver and cardio-pulmonary resuscitation (CPR), and shall maintain a current certification in CPR within 90 days of providing direct services. On-line or computer-based courses are not acceptable for meeting this requirement; such training must be provided in a classroom setting by a certified trainer. Facilities shall ensure there is always at least one direct service provider with current CPR certification on-site when residents are present.

(d) All staff must complete an educational course on HIV/AIDS, within 90 days of providing direct services.

(e) For those residents with behavior plans, facilities shall comply with the requirements of 65G-8 of the Florida Administrative Code.

(f) A violation of this subsection shall constitute a Class III violation.

Specific Authority 393.501(1), 393.067, F.S. Law Implemented ss. 393.0655, 393.067, F.S. History–New _____.

65G-2.009 Resident Care and Supervision Standards.

(1) MINIMUM STANDARDS. Residential facility services shall ensure the health and safety of the residents and shall also address the provision of appropriate physical care and supervision.

(a) Each facility shall:

1. Facilitate the implementation of client support plans, behavior plans, and any other directions from medical or health care professionals as applicable;

2. Contact the client's support coordinator, as necessary, to ensure the timely provision of needed medical and dental care; and

3. Participate in staff training and meetings as required by the Agency.

(b) The facility must employ sufficient staff so that it is not dependent upon the use of volunteers or residents. However, residents shall be encouraged to perform age and ability appropriate personal housekeeping chores such as maintaining his or her own quarters. A resident may also be expected to participate in an independent daily living skills program which may include the sharing of, or responsibility for, ordinary household tasks such as meal preparation, grocery shopping, dishwashing, laundering, and cleaning of common areas of the residence, lawn care, gardening and other tasks generally performed by a typical family.

(c) The treatment and care of residents shall be individualized and appropriate to differences in personal goals, abilities, sex, age, and special needs.

(d) The facility shall adhere to and protect resident rights and freedoms in accordance with the Bill of Rights of Persons with Developmental Disabilities, as provided in s. 393.13, F.S. Violations of s. 393.13(3)(a), F.S. relating to humane care, abuse, sexual abuse, neglect, or exploitation and all violations of s. 393.13(3)(g), F.S., shall constitute a Class I violation. All other violations of s. 393.13(3) shall constitute Class III violations. All violations of s. 393.13(4)(c)1 and 2, (f), and (g), F.S. shall constitute Class I violations. All violations of s.

393.13(4)(h), F.S. shall constitute Class II violations. All other violations of s. 393.13(4), F.S. shall constitute Class III violations.

(e) The placement of a resident within a facility shall not be construed as a termination or restriction of the rights and responsibilities of the parents or guardians. Although not required, it is recommended that parents, guardians, and other responsible persons organize as volunteers for the purpose of promoting the welfare of the residents.

(f) 1. Within the scope of the licensee's responsibility for care and supervision of residents, the licensee shall ensure that there is appropriate action taken for a resident's essential care following a resident's medical, dental, therapy or other health care-related appointments to include scheduling additional appointments for residents, or assisting residents in scheduling their own appointments, as well as appropriate training of staff on changes in medication or dietary regimens, positioning of residents, utilization of specialized equipment, or any other area which has changed subsequent to any such appointments that would be within the purview and authority of the licensee to accomplish. As used in this paragraph "essential care" refers to care and follow-up measures that are medically necessary or directed by a treating physician or health care practitioner for the purpose of continuing an ongoing course of treatment of, or therapy for, a resident's illness, injury, medical condition or diagnosis until such time as such care and follow-up measures are no longer directed or recommended by the physician or health care practitioner. A violation of this paragraph shall constitute a Class I violation.

2. Within the scope of the licensee's responsibility for care and supervision of residents, the licensee shall ensure that there is appropriate action taken for a resident's routine or preventive care following a resident's medical, dental, therapy or other health care-related appointments to include scheduling additional appointments for residents, or assisting residents in scheduling their own appointments. As used in this paragraph "routine or preventive" means care other than essential care such as routine examinations, annual check-ups, or preventive screenings and dental care and cleanings. A violation of this paragraph shall constitute a Class II violation.

(g) Except as otherwise provided a violation of this subsection shall constitute a Class III violation.

(2) COMMUNITY RELATIONSHIP AND RECREATIONAL ACTIVITIES. Facilities shall provide opportunities for residents to participate in community activities. A violation of this subsection shall constitute a Class III violation.

(3) TRANSFER AND PLACEMENT OF CLIENTS.

(a) The licensee shall have written criteria and procedures in place for the admission or termination of residential services for clients; termination procedures must be consistent with Chapter 65G-3, F.A.C.

(b) The facility shall not serve residents unless it can meet their specific programmatic and physical accessibility needs. The facility must be capable of effectively and safely meeting the needs of all facility residents accepted for placement. The licensee shall ensure that the placement of new residents within the facility does not adversely affect the health, safety, or welfare of existing facility residents. The licensee must obtain the Agency's approval prior to any proposed placement that would deviate from the criteria specified on the facility's application for licensure. The licensee shall notify the Agency and provide descriptive information on the prospective resident if the proposed placement involves an individual who is not a client of the Agency.

(c) Prior to a proposed transfer of a client from one licensed facility to another, the licensee shall discuss the transfer and reasons for transfer with the client, the client's authorized representative (if one has been appointed), support coordinator, the Agency, and other involved service providers, as appropriate.

(d) A licensee who operates, administers, or manages more than one foster care facility, group home facility or residential habilitation center facility must receive approval from the Agency prior to transferring a client from one of its licensed facilities to another of its licensed facilities. Prior approval shall not be required in the event of an emergency in which there is a substantial probability that the health or safety of the client would be jeopardized in the absence of immediate relocation. Agency approval or notification is not required when a client is transferred within a single comprehensive transitional education program (CTEP).

(e) When a client is moved to a new residential setting, the licensee shall provide any personal belongings of the client to the client or the client's authorized representative. The property inventory list completed in accordance with paragraph (g) below shall be referenced in order to account for all items.

(f) Prior to placement, and to ensure the smooth, safe and most effective transition of a new client to the licensee's facility, the licensee shall:

1. Provide an opportunity for the referred client and the client's authorized representative to visit the facility;
2. Cooperate and assist the Agency, the client's support coordinator, and the client's authorized representative with the new client's discharge from the former residential setting; and
3. Make needed preparations for the new client, including ensuring that all staff are made aware of the client's needs, and are properly trained and equipped to meet those needs.

(g) Upon placement, an itemized property inventory list accounting for the client's records, personal funds, serviceable clothing, and any other personal belongings shall be completed and signed by the licensee and the client or the client's authorized representative. This inventory record shall be updated within 30 days to reflect the acquisition of new items and reflect items that have been discarded, except that new and discarded articles of clothing are not required to be continually inventoried.

(h) Facilities that plan to use facility staff to take clients of the Agency out of Florida overnight shall provide prior notification to the Agency.

(i) The licensee shall cooperate and assist the Agency, the client's support coordinator, and the client's authorized representative in ensuring a smooth discharge of clients to other facilities or residential settings. Within 30 days, unless otherwise approved by the Agency, the licensee shall transfer all personal funds, medications, records, and possessions of the resident in the providers possession to the Agency, the client's support coordinator, the client's authorized representative, or the receiving facility, as applicable.

(j) A violation of this subsection shall constitute a Class III violation.

(4) RESIDENT FUNDS. Neither the licensee nor staff employed by the licensee may receive any financial benefit by charging a fee against, borrowing, or otherwise using the personal funds of a client for their personal benefit.

(a) The licensee shall maintain written receipts for purchases made with clients funds, valued at \$25.00 or more for at least one year following the date of purchase.

(b) A record of income and expenditures from each client's personal funds shall be maintained in accordance with generally accepted accounting principles.

(c) The available amount of each client's personal funds must reconcile with the most recent ending balance which is recorded within the licensee's record of client income and expenditures.

(d) The licensee shall maintain a checking or savings account for the personal funds of clients. If a single account is maintained for multiple clients, a separate accounting must be maintained for each individual client that reconciles monthly to the account's total, as noted on the bank statement, and shall be retained by the provider for review by the Agency. With the exception of the facility's other residents, the personal funds of clients must not be co-mingled with the funds of any other person or entity, including those of the licensee or staff.

(e) Each client's individual accounting must include:

1. The group home facility's name and address;
2. The client's name;
3. The client's ending balance for the previous month;
4. The month and year for the accounting form;
5. The date and amount of all deposits and withdrawals;
6. The account balance following each deposit or withdrawal;
7. A brief statement of the purpose or reason for each deposit and withdrawal;
8. The name and signature of the staff member that completed each deposit or withdrawal;
9. The client's signature, in any instance where money has been withdrawn for the client to use at his or her own discretion; and
10. The ending balance for the month.

(f) Each licensee must maintain this client accounting information on Agency form APD 2014-09 (effective April 1, 2014) which is incorporated herein by reference, or in an alternative format that includes all required information contained in the form and tracks all of the information required in paragraph 65G-2.009(4)(e), F.A.C. A copy of this form may be obtained from the Regional Office. The client accounting records shall be kept on the premises or maintained electronically and in a central location. Relevant current financial information, such as the account balance and a supply of funds, shall be maintained and secured in each facility to allow for purchases and other client or guardian-authorized uses of resident funds. All records shall be made available, as requested by Agency staff for inspection and monitoring purposes.

(g) A violation of this subsection shall constitute a Class II violation.

(5) CLIENT RECORDS. The facility shall establish and maintain an individual record for each client on the premises. The record shall contain information pertinent to the resident's health, supervision, and care. The records may be maintained electronically.

(a) The record shall be the property of the client and shall remain with the client in the event the client moves to a different facility or the facility has a change in providers. However, in accordance with HIPAA, the licensee shall retain a copy of the records for six years, which shall be made available to the Agency for surveying, monitoring and inspection purposes. The licensee is solely responsible for the costs of reproduction of client records for the purposes of this subsection.

(b) At a minimum, the client records shall include:

1. The client's name and date of birth;
2. The name, addresses and telephone number of the client's physician and dentist;
3. Contact information for the client's authorized representative and support coordinator;
4. Client or authorized representative authorization for routine medical or dental care;
5. Medical and dental reports, including any examination results and laboratory findings, if received by the facility, and the client's medication history and any special instructions for carrying, lifting, positioning, bathing, assisting with meals or other aspects of personal care;
6. The resident's legal competency, guardianship status, and the identification of any authorized representatives;
7. If applicable, a copy of the client's current support plan, as supplied by the client's support coordinator, and any other applicable plans such as an implementation plan; or behavior plan.
8. Property inventory list;
9. Incident reports directly involving the client; and
10. A color photograph of the client taken within the past five years.

(c) The records shall be current to the greatest extent possible and updated at least 30 days following receipt of new information. If any of the required information is not available, the licensee shall include written documentation in the record that a diligent effort was made to obtain the missing information.

(d) Client records shall be kept confidential in accordance with section 393.13, Florida Statutes.

(e) A violation of this subsection shall constitute a Class III violation.

(6) RESIDENT SUPERVISION.

(a) Each facility must provide the level of supervision necessary to ensure that residents are protected from harm and that a safe and healthy living environment is created and maintained. Direct service providers must be given specific information and strategies to provide such an environment for all of residents of the facility. To the maximum extent possible, however, the facility shall respect the rights of residents to privacy and self-determination.

(b) At least one staff person must be present at all times while clients are in the facility. The only exception would be if the licensee prepares a written plan proposing that a specified client be left alone for limited periods of

time during the day or night. Such plans must be approved by the Regional Office prior to implementation. In granting plan approval, the Agency shall consider the needs, characteristics, and abilities of the resident and the proposed circumstances under which the resident will be left alone. Non-compliance with the approved plans may result in the imposition of administrative fines, the suspension or revocation of such plans, or other administrative actions as appropriate.

(c) A violation of this subsection shall constitute a Class I violation.

(7) VIDEO MONITORING.

(a) The use of video cameras for the purposes of visually monitoring residents is permitted when necessary to assist in the behavioral or medical monitoring, diagnosis, intervention or treatment of residents who require ongoing and continuous supervision due to intensive medical and/or behavioral programmatic issues or if the licensee intends to use the monitoring as a means by which to prevent or detect abuse, neglect, exploitation, or sexual misconduct. Any providers that utilize a video monitoring system shall develop written criteria for determining which residents will be monitored by video camera, and protocols for implementing video monitoring.

(b) Monitoring shall be permitted only with the written consent of the resident, if competent, or the resident's authorized representative. The facility must explain when and where monitoring will occur and the purposes of the monitoring system.

(c) The titles and positions of all persons authorized to access video feeds at off-site locations must be disclosed to the Agency. Such remote access must be accompanied by safeguards, such as firewalls and other security measures, sufficient to ensure resident privacy.

(d) The use of remote interactive video monitoring shall be limited to vocational and educational settings, medical and special treatment spaces, administrative offices, or common areas. Remote interactive video monitoring may not be used in bedrooms or bathrooms.

(e) The Agency reserves the right to preclude, restrict, or suspend a facility's authority to conduct video monitoring pursuant to this subsection at any time if the Agency determines that any of the provisions of this subsection or of s. 393.13, F.S. have been violated.

(f) A violation of this subsection shall constitute a Class II violation.

(8) BEHAVIORAL INTERVENTIONS AND RESPONSES TO BEHAVIORAL ISSUES INVOLVING RESIDENTS.

(a) The facility shall have a written statement of policies and procedures governing actions that may be taken by direct service providers to help prevent or respond to problematic behaviors exhibited by residents. Such policies and procedures, as well as any actions taken by direct service providers involving residents of the facility, shall include emergency procedures, reporting requirements, and be consistent with the provisions of section 393.13, F.S. as well as Chapters 65G-4 and 65G-8, F.A.C. A violation of this paragraph shall constitute a Class II violation.

(b) Direct service providers shall be trained in responding to serious and spontaneous behavioral incidents requiring emergency intervention procedures. A violation of this paragraph shall constitute a Class II violation.

(c) Emergency intervention procedures that use restraint or seclusion, or cause physical discomfort require approval from the Local Review Committee prior to implementation. A violation of this paragraph shall constitute a Class II violation.

(d) The following responses are strictly forbidden:

1. Physical or corporal punishment that includes but is not limited to hitting, slapping, smacking, pinching, paddling, pulling hair, pushing or shoving residents;

2. The use of noxious substances, which include painful or aversive stimuli used to control behavior such as pepper on tongue, squirt of lemon juice, ammonia inhalants, or electric shock;

3. Verbal abuse such as cursing at residents, using slurs or derogatory names, or screaming; or

4. Humiliation, such as keeping a resident in wet or soiled clothing or diapers, making the resident stand in front of others to be ridiculed, or making the resident wear a sign or dunce cap, placing residents in dark or locked time-out rooms.

A violation of this paragraph shall constitute a Class I violation.

(9) SEXUAL ACTIVITY.

(a) The licensee shall develop and enforce a written policy regarding sexual activity involving residents of the facility. Such policy must explicitly prohibit sexual activity between a resident and a covered person and any sexual activity that involves residents who are under the age of eighteen. Such policy shall not in any way abridge nor restrict the civil and legal rights of persons with developmental disabilities, including those specified within s. 393.13, F.S.

(b) The licensee shall provide direct service providers with training regarding the licensee's policy regarding sexual activity involving residents of the facility. The policy shall address appropriate physical boundaries and standards among direct service providers and residents and must include the following elements:

1. Physical affection between direct service providers and residents should be brief, age appropriate, and should avoid bodily contact, such as lying together or sitting on laps, unless such affection is appropriate and clinically indicated based upon the context, such as consoling a grieving resident upon the death of a loved one, nurturing a young child recently separated from their family, or comforting a resident recovering from surgery;

2. A dress code, for both residents and direct service providers, shall be established which outlines the type of clothing that is acceptable, and where and under what circumstances it is acceptable;

3. Direct service providers and residents must respect personal space, such as knocking before entering a bedroom except as may be necessary for residents who require visual supervision due to documented behavioral or medical issues. A violation of this subparagraph constitutes a Class III violation;

4. The licensee shall limit access to bedrooms by establishing and enforcing house rules on who is allowed to visit whose bedroom and under what conditions;

5. All residents and direct service providers shall sleep in separate beds;

6. A provision which permits direct service providers to assist or supervise residents while the resident bathes, showers, or toilets, if the resident requires assistance or supervision, and which prohibits staff from bathing, showering, or toileting simultaneously with the resident under any circumstances;

7. Guidelines concerning the level and type of supervision required for residents and all direct service providers shall be familiar with such guidelines;

8. Open communication among residents and direct service providers about events occurring in the facility in order to encourage reporting of incidents of inappropriate sexual behavior.

(c) The following safeguards shall be implemented in any facility which serves one or more sexually aggressive residents:

1. All direct service providers shall review all available written, detailed and complete information related to sexually aggressive residents in order to prevent the occurrence of sexual abuse incidents. When available to the licensee, such information provided to staff must include, but is not limited to, the date of the sexual abuse incident, type of abuse, brief narrative outlining the event, type of treatment the resident received and the outcome of the

treatment. If the resident is currently in treatment, the licensee shall maintain contact information for the treatment provider;

2. Newly placed sexually aggressive residents shall be provided visual supervision at all times the resident is awake during the resident's first twenty-four (24) hours in the facility;

3. A sexually aggressive resident must not be allowed to share a bedroom with another resident without Agency approval. Such approvals shall take into consideration the licensee's plan to assure supervision sufficient to ensure the safety of residents;

4. Known sexually aggressive residents who are minors shall never be left alone with other residents in a bedroom or bathroom behind closed doors. Only one resident may use the bathroom at any time that the bathroom door is closed; and

5. Residents who are minors are not permitted to possess obscene materials as defined in s. 847.001, F.S., on the premises.

(d) Except as otherwise provided, a violation of this subsection shall constitute a Class I violation.

(10) SOLICITATION ACTIVITIES. The licensee must have the written permission of the client, if competent, or the client's authorized representative prior to using the client, the client's name, picture, or disability for the purpose of securing donations. A violation of this subsection shall constitute a Class III violation.

(11) FIRST AID. The facility shall have on the premises an American Red Cross-approved first aid kit. The first aid kit shall be maintained in places known to and readily available to all direct service providers. Potentially toxic materials contained within first aid kits should be stored in a manner which does not pose a risk to residents. A violation of this subsection shall constitute a Class III violation.

(12) MEDICATION.

(a) Medication shall be administered to clients in accordance with the written order or prescription issued by an individual's health care practitioner. Ongoing staff re-training and competency based verification of skills shall be provided when there is evidence of medication errors to correct staff practices and prevent future occurrences. A violation of this paragraph resulting in a direct, negative impact to the health and safety of the individual, or presenting an imminent danger to the individual shall constitute a Class I violation.

(b) All prescription medication shall be kept in its original container bearing the original dated label with legible information stating the prescription number, direction for use, client's name, physician's name, and address of the issuing pharmacy.

(c) Medication shall be kept in a locked enclosure.

(d) A client, whom the physician has deemed capable of handling his/her own medications, should be encouraged to do so. Staff shall assist the client by making the medication available and reminding the client to take medication at appropriate times.

(e) The licensee must maintain an up-to-date and accurate daily record of prescription and/or nonprescription medication administered to clients in accordance with the provisions of rule 65G-7, F.A.C.

(f) The administration of medication to residents, as well as the documentation of administration of such medication, medication storage, and error reporting shall be performed in accordance with ss. 393.13 and 393.506, F.S., Chapter 65G-7, F.A.C., and this rule chapter.

(g) If the licensee or a direct service provider observes or receives reports from other individuals that a client may have experienced an adverse reaction to an administered medication, such information must be conveyed immediately to either the prescribing physician or the licensed medical professional employed by the licensee who has been charged with the responsibility of securing appropriate medical treatment for residents with health-related issues or concerns. If either the prescribing physician or medical professional employed by the licensee is unable to be reached, facility staff shall immediately seek medical attention for the resident. A violation of this paragraph shall constitute a Class I violation.

(h) With the exception of paragraphs (a) and (g), a violation of this subsection shall constitute a Class II violation

(13) SPECIALIZED EQUIPMENT. The licensee shall ensure that all direct service providers have been trained and are competent in the proper application, monitoring, and removal of specialized equipment worn by residents, including but not limited to Ankle-Foot Orthoses (AFOs), leg braces, arm splints, neck collars, helmets, and safety belts. In addition, direct service providers shall be knowledgeable in the proper operation of other specialized equipment required by residents such as wheelchairs, lifts, and positioning devices. The licensee shall contact the appropriate support coordinator(s) as soon as significant signs of wear and tear are noticed on specialized equipment used by the residents. A violation of this subsection shall constitute a Class III violation.

(14) TRANSPORTATION.

(a) The facility shall provide or arrange for the incidental transportation of residents within the community as a typical household would provide for its members. This shall include, but is not limited to, trips to malls, grocery stores, religious worship services, medical or dental appointments, and recreational outings within the surrounding community. These trips shall be provided by the facility at no cost to the residents unless such trips involve destinations which are more than 25 miles from the facility.

(b) Any vehicle operated by the facility in which residents are transported shall have a current license plate, carry at least the minimum insurance coverage required by state law, contain a working and tagged fire extinguisher, be operated by a driver holding an appropriate valid driver's license, have working seatbelts and wheelchair tie-downs when applicable, have working heat and air conditioning, and be maintained in a manner to ensure safe transport.

(c) The number of transported residents not seated in wheelchairs during the trip shall not exceed the number of available seats in the vehicle.

(d) Residents shall be encouraged to use public transportation in areas where it is available and appropriate to the residents' ability.

(e) Residents may not be left unattended in any vehicle operated by the facility. A violation of this paragraph shall constitute a Class I violation.

(f) With the exception of paragraph (e), a violation of this subsection shall constitute a Class II violation.

(15) COMMUNICATION AMONG STAFF. A facility shall have a system in place to communicate recent incidents and client information to staff working on subsequent shifts.

(a) The system shall include a mechanism for documenting in writing, any and all information, such as medical or behavioral incidents or physician or therapist orders or recommendations, of which staff should be made aware and which could potentially affect the residents' health or safety if staff were unaware of such information.

(b) The system established shall include a procedure or mechanism to assure that the information described in this subsection is reviewed across all shifts.

(c) Such communication-related documentation shall be maintained within the facility for a least one year following each entry and may be maintained electronically. The information shall be made available to the Agency during inspections

(d) A violation of this subsection shall constitute a Class III violation.

Specific Authority 393.501(1), 393.067, 393.506, F.S. Law Implemented 393.067, 393.13, 393.135, 393.506, F.S.

History–New _____.

65G-2.010 Fire and Emergency Procedures.

(1) EMERGENCY STANDARDS.

(a) Direct service providers shall be knowledgeable in facility procedures for handling emergencies.

(b) There shall be at least one telephone which is accessible to direct service providers and residents for emergency use at all times. The facility must have the following telephone numbers readily accessible at each telephone extension in the facility:

1. Local law enforcement;

2. Fire Department;

3. Residents' doctors;

4. Ambulance;

5. Support Coordinator for each client;

6. Regional Office;

7. Emergency Agency on-call number, as assigned by the Regional Office;

8. Florida Abuse Hotline; and

9. Poison Control Hotline.

(c) A violation of this subsection shall constitute a Class III violation.

(2) FIRE SAFETY STANDARDS. The local authority having jurisdiction over fire safety or the State Fire Marshall shall be requested to annually inspect the facility for compliance with Chapter 69A-38, F.A.C., as applicable. Dates and results of required monthly fire drills (i.e., time of day, points of exit used, evacuation time, and signature of person conducting the drill) shall be recorded and maintained for one year following the date of the drills. Required monthly fire drills shall not be conducted between the hours of midnight and 5:00 AM. Regional Office employees shall be afforded the opportunity to observe monthly fire drills in order to verify the effectiveness and efficiency of evacuations. A violation of this subsection shall constitute a Class III violation.

(3) EMERGENCY MANAGEMENT PLANS.

(a) EMERGENCY PLAN COMPONENTS. Pursuant to section 393.067(8), F.S., each facility shall prepare a written comprehensive emergency management plan which shall be updated as needed and on an annual basis. The emergency management plan must address the following:

1. Provision for all hazards. Each plan shall describe the potential hazards to which the facility is vulnerable such as hurricanes, tornadoes, flooding, fires, hazardous materials, incidents from fixed facilities or transportation accidents, and power outages during severe cold or hot weather.
2. Provision for the care of residents remaining in the facility during an emergency including pre-disaster or emergency preparation; protecting the facility; supplies; emergency power; food and water; staffing; and emergency equipment.
3. Provision for the care of residents who are evacuated from the facility during an emergency and provision for the care of any residents that remain in the facility during an emergency, including identification of such residents and transfer of resident records; evacuation transportation; sheltering arrangements; supplies; staffing; emergency equipment; and medications.
4. Identification of residents with mobility limitations who may need specialized assistance either at the facility or in case of evacuation.
5. Identification of and coordination with the local emergency management agency.
6. Arrangement for post-disaster activities including responding to family inquiries, obtaining medical intervention for residents; transportation; and reporting to the county office of emergency management the number of residents who have been relocated and the place of relocation.
7. The identification of staff responsible for implementing each part of the plan.

(b) EMERGENCY MANAGEMENT PLAN DEVELOPMENT.

1. Emergency management plans shall be updated at least annually and may be developed with the assistance of appropriate resource persons from the local fire marshal, Regional Office, or local emergency management agency. Comprehensive transitional education programs and facilities which serve residents with complex medical conditions must have their emergency management plans approved by the local emergency management agency.
2. The facility shall review its emergency management plan on an annual basis.

(c) EMERGENCY MANAGEMENT PLAN IMPLEMENTATION. In the event of an internal or external disaster, the facility shall implement the facility's emergency management plan in accordance with sections 252.355 and 252.356, F.S..

1. All staff must be trained in their duties and are responsible for implementing the emergency management plan.

2. If telephone service is not available during an emergency, the facility shall request assistance from local law enforcement or emergency management personnel in maintaining communication.

(d) FACILITY EVACUATION. The facility must evacuate the premises during or after an emergency if so directed by the local emergency management agency.

1. The facility shall report the evacuation to the local office of emergency management or designee and to the Agency within six hours of the evacuation order and at every six hour interval until the evacuation is complete.

2. The facility shall not be re-occupied until the area is cleared for reentry by the local emergency management agency or its designee and the facility can meet the immediate needs of the residents.

3. In cases where the facility experiences significant structural damage, the licensee or facility staff must relocate residents until the facility can be safely re-occupied.

4. The licensee or designated facility staff is responsible for knowing the location of all re-located residents until such time that those residents return to the facility.

5. The licensee or designated facility staff shall provide the Agency with the name of a contact person who shall be available by telephone 24 hours a day, seven days a week, until the facility is re-occupied.

6. The licensee or designated facility staff shall assist in the relocation of residents and shall cooperate with outreach teams established by the Agency or emergency management officials to assist in relocation efforts. Resident needs and preferences shall be considered to the greatest extent possible in any relocation decision.

(e) EMERGENCY SHELTER. In the event a state of emergency has been declared and the facility is not required to evacuate the premises, the facility may provide emergency shelter above the facility's licensed capacity provided the following conditions are met:

1. Life safety will not be jeopardized for any individual;

2. The immediate needs of residents and other individuals sheltered at the facility can be met by the facility;

3. Within forty-eight (48) hours following the facility exceeding its capacity, the facility reports to the Agency that the facility is over capacity and describes the conditions which have caused it to be over capacity. If the facility will continue to be over capacity after the declared emergency ends, the Agency shall review such ongoing requests on a case-by-case basis; and

4. The facility maintains a log of the additional persons being housed in the facility. The log shall include the individual's name, usual address, and the dates of arrival and departure. The log shall be available for review by representatives of the Agency and the local emergency management agency or its designee. The admissions and discharge log maintained by the facility may be used for this purpose provided the information is maintained in a manner that is easily accessible.

(f) A violation of this subsection shall constitute a Class II violation.

(4) MISSING RESIDENTS. Beyond one hour after determining that a child or an adult who has been adjudicated incompetent is missing, staff shall immediately call local law enforcement and ask the officer to:

(a) Take a report of the missing resident;

(b) Assign a case number and provide the number to the person reporting the resident as missing; and

(c) Provide a copy of the law enforcement missing person report when it is available to the group home.

(d) If the responding law enforcement officer refuses to take a missing person report for any reason, the person making the report will document the name of the officer and call the responding local law enforcement agency and request to speak to the appropriate Watch Commander about the refusal to take a missing person report. If the local law enforcement officials do not accept the report, the staff shall immediately notify the Regional Office. A violation of this paragraph shall constitute a Class III violation.

(e) Except as otherwise provided a violation of this subsection shall constitute a Class II violation.

(5) INCIDENT REPORTING. In all cases involving known or suspected abuse, neglect or exploitation, the incident shall be reported immediately to the Florida Abuse Hotline as required under ss. 39.201 and 415.1034, F.S. In addition, all incidents must be reported to the Regional Office in the following manner and according to the specified timeframes utilizing the APD Incident Reporting Form APD 10-002 (effective April 1, 2014) which is herein incorporated by reference. A copy of this form may be obtained from the Regional Office.

(a) Critical incidents must be reported to the appropriate Regional Office by telephone or in person within one hour after facility staff become aware of the incident. If this occurs after normal business hours or on a weekend or

holiday the person reporting the incident shall call the Regional Office after-hours designee. If the incident occurs between the hours of 8:00 p.m. and 8:00 a.m., an oral contact must be made with the Regional Office no later than 9:00 a.m. It shall be within the provider's discretion and judgment to determine the appropriateness of waiting until the following morning. Oral contacts should be followed up with the submission a completed APD Incident Reporting Form to the Regional Office within one business day following the critical incident. This form should be faxed, electronically mailed, or personally delivered to the Regional Office. Critical incidents include the following:

1. The unexpected death of a resident;
2. Any sexual activity, as described in s. 393.135, F.S., between facility staff and a resident regardless of the consent of the resident, incidents of nonconsensual sexual activity between residents, or sexual activity involving any child resident;
3. The unexpected absence or unknown whereabouts, beyond one hour, of a resident who is a minor or an adult resident who has been adjudicated incompetent;
4. Any unusual occurrence or circumstance such as a tornado, kidnapping, riot or hostage situation, which jeopardizes the health, safety or welfare of a resident;
5. A client has sustained a life-threatening injury;
6. Negative news media reports regarding the operation of the facility or the care of clients,
7. The arrest of a resident for a violent criminal offense; or
8. The Department of Children and Families has made a finding of verified abuse, neglect, exploitation, or abandonment by the provider or the provider's employees.

(b) Other reportable incidents must be reported to the Regional Office within one business day following the incident through the completion of a written incident report which may be faxed, electronically mailed, or personally delivered to the Regional Office. Reportable incidents include:

1. The death of a client that does not constitute an unexpected death;
2. Physical altercations occurring between a resident and a member of the community, a resident and direct service providers, or two or more residents, that results in law enforcement contact;
3. Any injury to a resident which requires medical attention in an urgent care center, emergency room or physician office setting;
4. The arrest of a resident for a non-violent offense or the arrest of a direct service provider, or licensee;

5. The unexpected absence or unknown whereabouts of a legally competent adult resident beyond eight hours;
 6. Any act which clearly reflects the physical attempt by a resident to cause his or her own death;
 7. The commitment of a client to mental health services pursuant to chapter 394, Florida Statutes, also known as the “Baker Act”; and
 8. Any other event that places a resident’s health, safety or welfare in jeopardy. Examples include severe weather conditions, alleged criminal activity by licensees, employees or residents, fires or other hazardous events or conditions.
- (c) The person making the report shall also immediately notify the resident’s authorized representative and support coordinator, as appropriate and, for children in the custody of the Department of Children and Families, the designated caseworker.
- (d) Upon statewide implementation of the Agency’s electronic incident reporting system, licensees shall also be required to submit all critical and reportable incidents to the Agency via the electronic system.
- (e) A violation of this subsection shall constitute a Class II violation.

Specific Authority 393.501(1), 393.067, F.S. Law Implemented 393.067, , F.S. History–New _____.

(Substantial rewording of Rule 65G-2.011, F.A.C. follows. See Florida Administrative Code for present text.)

65G-2.011 Foster Care Facility Standards.

- (1) ADMINISTRATION. Each foster care facility shall designate a person as responsible for the on-going operation of the foster care facility and for ensuring compliance with Chapter 65G-2 and s. 393.067, F.S. A violation of this subsection shall constitute a Class II violation.
- (2) FINANCIAL STANDARDS.
 - (a) Fiscal records pertaining to the cost of providing care to Agency clients shall be maintained in accordance with generally accepted accounting principles.
 - (b) The Agency may audit the records of a foster care facility to ensure compliance with Chapter 65G-2 and s. 393.067, F.S., provided that financial audits shall be limited to the records of Agency clients.

(c) Upon request by the Agency, the foster care facility shall make available copies of any internal or external audit reports pertaining to funding received on behalf of Agency clients.

(d) The provider, the provider's employees, and any family members thereof are prohibited from:

1. Being the named beneficiary of a resident's life insurance policy unless related to the resident by blood or marriage;

2. Receiving any indirect financial benefit from a resident's life insurance policy unless related to the resident by blood or marriage; or

3. Borrowing or otherwise using a resident's personal funds for any purpose other than the resident's benefit.

(e) A violation of this subsection shall constitute a Class III violation.

(3) STAFFING. In addition to the staffing requirements delineated under Rule 65G-2.008, F.A.C., foster care facilities which utilize live-in caregivers must provide for at least one back-up direct care staff, who has undergone a successful background screening in accordance with s. 393.0655, F.S. and chapter 435, F.S., that would be willing and able to render services to residents in the event that neither of the live-in caregivers are able to do so. A violation of this subsection shall constitute a Class II violation.

Specific Authority 393.501(1), 393.067 FS. Law Implemented 393.067 F.S. History—New 8-13-78, Formerly 10F-6.09, 10F-6.009, 65B-6.009, F.A.C. Amended _____.

(Substantial rewording of Rule 65G-2.012, F.A.C. follows. See Florida Administrative Code for present text.)

65G-2.012 Group Home Facility Standards.

(1) ADMINISTRATION.

(a) Each group home facility shall have a designated facility operator on-site or on call at all times. The facility operator is responsible for the on-going operation of the group home facility and for ensuring compliance with Chapter 65G-2 and s. 393.067, F.S. whenever the facility operator is on-site or on call and one or more residents are present in the facility.

(b) The facility operator shall be a person of responsible character and integrity, qualified by education, training, and experience to effectively manage the facility. The operator shall have successfully completed at least

90 credit hours of accredited college level coursework applicable to the functions of the facility, such as education, special education, social work, sociology, health, psychology or child development, or have at least a high school diploma and three years relevant experience in working with children, adolescents or adults with disabilities. The licensee shall designate a capable person who shall perform all the necessary duties of the operator during the temporary absence of the operator. Direct service providers hired by the licensee prior to the adoption date of this rule shall be exempt from this requirement.

(c) An area of the facility shall be designated as office space where files, desk, telephone and other administrative tools and equipment are located. Adequate provisions shall be made for ensuring the security of confidential files and other types of records, such as account books, inventories, audits, resident records, and resident funds. These records may be kept electronically. A violation of this paragraph shall constitute a Class III violation.

(d) With the exception of paragraph (c), a violation of this subsection shall constitute a Class II violation.

(2) FINANCIAL STANDARDS.

(a) Fiscal records pertaining to the cost of providing care to Agency clients shall be maintained in accordance with generally accepted accounting principles.

(b) The Agency may audit the records of a group home facility to ensure compliance with Chapter 65G-2 and s. 393.067, F.S., provided that financial audits shall be limited to the records of Agency clients.

(c) Upon request by the Agency, the group home facility shall make available copies of any internal or external audit reports pertaining to funding received on behalf of Agency clients.

(d) The provider, the provider's employees, and any family members thereof are prohibited from:

1. Being the named beneficiary of a resident's life insurance policy unless related to the resident by blood or marriage;

2. Receiving any indirect financial benefit from a resident's life insurance policy unless related to the resident by blood or marriage; and

3. Borrowing or otherwise using a resident's personal funds for any purpose other than the resident's benefit.

(e) A violation of this subsection shall constitute a Class III violation.

Specific Authority 393.501(1), 393.067 FS. Law Implemented 393.067 F.S. History–New 8-13-78, Formerly 10F-6.10, 10F-6.010, 65B-6.010, F.A.C., Amended _____.

(Substantial rewording of Rule 65G-2.013, F.A.C. follows. See Florida Administrative Code for present text.)

65G-2.013 Residential Habilitation Center Standards.

(1) ORGANIZATION AND ADMINISTRATION.

(a) A residential habilitation center need not be a fully self-contained program unit. Residential habilitation center activities may be coordinated with habilitative educational and recreational activities in which the residents engage outside of the facility.

(b) Each facility shall have a facility operator on-site designated as responsible for the on-going operation of the residential habilitation facility and for ensuring compliance with Chapter 65G-2 and s. 393.067, F.S., at all times that one or more residents are present in the facility.

(c) The operator shall be a person of responsible character and integrity, qualified by education, training, and/or experience to effectively manage the facility. The operator should have successfully completed accredited college level course work applicable to the functions of the facility, such as education, special education, social work, sociology, health, psychology or child development, or have at least a high school diploma and three years relevant experience in working with children, adolescents or adults with developmental disabilities. The operator shall designate a capable person who, in his or her absence but under his or her supervision, will perform all the necessary duties of the position.

(d) An area of the facility shall be designated as office space where files, desk, telephone and other administrative tools and equipment are installed. Provisions shall be made for locking and protecting confidential files and other types of records, e.g., account books, inventories, audits, resident records, and resident funds. A violation of this paragraph shall constitute a Class III violation.

(e) With the exception of paragraph (d), a violation of this subsection shall constitute a Class II violation.

(2) FINANCIAL STANDARDS.

(a) Fiscal records pertaining to the cost of providing care to Agency clients shall be maintained in accordance with generally accepted accounting principles.

(b) The Agency may audit the records of a residential habilitation center to ensure compliance with Chapter 65G-2 and s. 393.067, F.S., provided that financial audits shall be limited to the records of Agency clients.

(c) Upon request by the Agency, the residential habilitation center shall make available copies of any internal or external audit reports pertaining to funding received on behalf of Agency clients.

(d) The provider, the provider's employees, and any family members thereof are prohibited from:

1. Being the named beneficiary of a resident's life insurance policy unless related to the resident by blood or marriage;

2. Receiving any indirect financial benefit from a resident's life insurance policy unless related to the resident by blood or marriage; and

3. Borrowing or otherwise using a resident's personal funds for any purpose other than the resident's benefit.

(e) A violation of this subsection shall constitute a Class III violation.

(3) RESIDENT TRAINING. The residential habilitation center shall ensure that all residents receive habilitative services to meet their individualized needs. The residential habilitation center will assist the resident in exercising maximum independence in the following:

(a) Self-care skills, such as eating, dressing, toileting, bathing, and grooming;

(b) Daily living skills, such as community living skills, housekeeping skills, first aid, and use of a telephone;

(c) Communication skills, verbal or nonverbal, such as receptive language, expressive language, functional reading, and functional writing;

(d) Social skills, such as adaptive behaviors for appropriately interacting with others in all settings;

(e) Motor skills, such as fine and gross motor skills;

(f) Recreational skills or interests;

(g) Human growth and development;

(h) Basic knowledge or cognitive development, including both pre-academic and academic skills; and

(i) Job related skills, such as personal work interests, work capabilities, work habits, practical work interests, community mobility, and job seeking skills.

(j) A violation of this subsection shall constitute a Class II violation.

Specific Authority 393.501(1), 393.067 FS. Law Implemented 393.067 F.S. History–New 8-13-78, Formerly 10F-6.11, 10F-6.01, 65B-6.011, F.A.C., Amended _____.

(Substantial rewording of Rule 65G-2.014, F.A.C. follows. See Florida Administrative Code for present text.)

65G-2.014 Comprehensive Transitional Education Program Standards.

(1) ORGANIZATION AND ADMINISTRATION. Each Comprehensive Transitional Education Program (CTEP) shall maintain a written policy and procedures manual which shall be available for Agency inspection and include:

- (a) A description of the overall organizational structure of CTEP, including the responsibilities of the governing body, and the links between the different components;
- (b) Personnel policies and procedures including the qualifications of staff and their specific functions and duties;
- (c) Criteria and procedures for admissions and discharges;
- (d) The use of behavioral interventions and procedures;
- (e) Criteria and protocols related to the video monitoring of residents;
- (f) Criteria and protocols for use of medication which may be employed for the purpose of behavioral change;
- (g) Methods for resident risk prevention, including incident reporting and the mandatory reporting of abuse, neglect, and exploitation under ss. 39.201 and 415.1034, F.S.;
- (h) The emergency management plan and evacuation procedures specified under Rule 65G-2.010, F.A.C.; and
- (i) A description of all reactive and restrictive procedures that may be utilized with CTEP residents.
- (j) A violation of this subsection shall constitute a Class III violation.

(2) FINANCIAL STANDARDS.

- (a) Fiscal records pertaining to the cost of providing care to Agency clients shall be maintained in accordance with generally accepted accounting principles.
- (b) The Agency may audit the records of a CTEP to ensure compliance with Chapter 65G-2 and s. 393.067, F.S., provided that financial audits shall be limited to the records of Agency-funded clients.

(c) Upon request by the Agency, the CTEP shall make available copies of any internal or external audit reports pertaining to funding received on behalf of Agency clients.

(d) The provider, the provider's employees, and any family members thereof are prohibited from:

1. Being the named beneficiary of a resident's life insurance policy unless related to the resident by blood or marriage;

2. Receiving any indirect financial benefit from a resident's life insurance policy unless related to the resident by blood or marriage; and

3. Borrowing or otherwise using a resident's personal funds for any purpose other than the resident's benefit.

(e) A violation of this subsection shall constitute a Class III violation.

(3) RESIDENT TRAINING AND DATA COLLECTION. Each CTEP shall have a policy and put into practice a system that enables the program to accurately track and act upon information pertinent to each resident's welfare.

(a) Data collection on each individual shall include:

1. The use of emergency interventions;

2. The use of restraint and seclusion;

3. The use of restrictive procedures;

4. Accidents, injuries, unusual incidents or other significant events, including the frequency, intensity and duration of the incident or significant event;

5. Acquisition of functional adaptive skills; and

6. Measurement of targeted inappropriate behavior which reflects frequency, intensity, and duration of the behavior.

(b) Monitoring and management systems shall include:

1. Methods for continuously monitoring the adequacy of services, care, and treatment of individual residents and the program as a whole; and

2. Systematic means of acting on resident information in a timely and effective manner.

(c) A violation of this subsection shall constitute a Class II violation.

(4) SERVICES TO BE PROVIDED. Resident treatment services shall include:

(a) Review by a Certified Behavioral Analysis;

(b) Education;

(c) Behavioral interventions;

(d) Activities of daily living;

(e) Vocational Training;

(f) Recreation;

(g) Socialization; and

(h) Independent Living.

(i) A violation of this subsection shall constitute a Class III violation.

(5) STAFF REQUIREMENTS, QUALIFICATIONS AND RESPONSIBILITIES.

(a) The facility shall employ a clinical director who is certified as a behavior analyst by the National Behavior Analyst Certification Board. A similarly qualified designee, identified in writing, shall be responsible in the absence of the director.

(b) CTEP staff must meet the following qualifications:

1. Staff who supervise the design of behavioral intervention plans must be board certified behavior analysts;

2. Professional staff shall have current licensure or professional certification, as appropriate to their responsibilities;

3. The CTEP shall arrange for all staff to receive documented and criteria-referenced pre-service training on every aspect of resident care and treatment;

4. In addition to the staff training required in other provisions of this rule chapter, CTEP staff shall receive instruction that includes:

a. The role and function of the Local Review Committee;

b. Individual Behavioral Intervention Plans; and

c. Twenty contact hours of face-to-face competency-based instruction with performance-based validation in applied behavior analysis, including: introduction to applied behavior analysis; basic principles and functions of behavior; providing positive consequences, planned ignoring, and stop-redirect-reinforce techniques; and data collection and charting. Written documentation must be recorded to demonstrate compliance with these training requirements and be updated annually. The CTEP must retain these records for a period of 3 years;

5. There shall be a staff monitoring system that verifies that direct service providers continue to be competent in the use of behavioral techniques on which they were trained. Monitoring for competence must occur at monthly intervals for 50% of direct service providers. Staff must be recertified in the training requirements on an annual basis;

6. The CTEP shall utilize a system that measures and demonstrates continuing staff competencies on the use of procedures that are included in each person's behavior plan.

7. Staff shall include a board certified behavioral analyst; and

8. The full-time staff member responsible for overall supervision and approval of behavioral interventions shall have a minimum of a Master's degree in a health-related field, have two years of experience in the design and implementation of behavioral interventions with an appropriate population, and be certified as a behavior analyst.

(c) A violation of this subsection shall constitute a Class II violation.

(6) RESIDENT RIGHTS. The facility shall establish and maintain:

(a) Inter-disciplinary teams to plan and implement the support plan as well the Individual Education Plan for residents who are clients of the Agency;

(b) A committee approved by the Senior Behavior Analyst for the Agency as an official sub-committee of the Agency's behavior analysis Local Review Committee shall meet regularly, review all behavioral intervention plans, and report to the behavioral analysis Local Review Committee. The Area Behavior Analyst or designee shall chair this committee; and

(c) A process for obtaining the informed consent of the resident or the resident's authorized representative, in cases where restrictive procedures are employed, or rights abridged.

(d) A violation of this subsection shall constitute a Class III violation.

(7) PLACEMENT, INTAKE, AND TRANSITION.

(a) All residents shall be provided an orientation to the facility designed to lessen anxiety and acquaint the residents with the program.

(b) The CTEP shall obtain resident referral material prior to each admission which includes current medical, behavioral, educational and social data.

(c) At the time of admission the CTEP shall develop and update monthly transition plans for each client funded by the Agency which include:

1. Prioritization of those behaviors that resulted in admission;
 2. Targeted discharge placements; and
 3. Plans for fading behavior supports to meet the structure of discharge placement and integration with the supports that will be available upon discharge.
- (d) A violation of this subsection shall constitute a Class III violation.

Specific Authority 393.501(1), 393.067, F.S. Law Implemented 393.067, 393.18, F.S. History–New 7-31-91, Formerly 10F-6.013, 65B-6.013, F.A.C. Amended _____.

65G-2.015 Siting.

(1) through (7) No Change.

(8) The requirements of subsections (4), (5), and (6) of this rule do not apply to a “community residential home” located within a “planned residential community” as those terms are defined in section 419.001, Florida Statutes. A facility has the burden of establishing that it is a “community residential home” within a “planned residential community.” To satisfy this burden, a facility must provide the following documents with its initial license application and each subsequent license renewal application:

- (a) A copy of all local ordinances approving the planned residential community as a planned unit development, and
- (b) Documents which verify that:
 1. the facility is a community residential home located within a planned residential community;
 2. the planned residential community is under unified control;
 3. the planned residential community was planned and developed as a whole;
 4. the planned residential community has a gross lot area of 8 acres or more; and
 5. the planned residential community provides choices with regard to housing arrangements, support providers, and activities.

Specific Authority 393.501 FS. Law Implemented 393.067, 393.501, FS. History– Effective dates for subsections (1) through (7) are 8-1-05. New _____.