NATIONAL ASSOCIATION FOR REGULATORY ADMINISTRATION

Comparative Study:
Residential Facilities and Day Treatment Programs
State Child Welfare Licensing Requirements

July, 1997

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Introduction

More and more services for children, which have traditionally been delivered by state workers and directly under state control, are now being provided in the private sector by child caring agencies. As a result, the need for comprehensive and effective state regulatory programs has never been greater. Increasingly, state licensing requirements are becoming the primary means to protect our nation's most vulnerable citizens: children who are cared for in residential child care facilities.

In light of this trend, the National Association for Regulatory Administration (NARA) conducted a survey of the 50 states and District of Columbia to determine their licensing requirements in eight categories related to child care programming and treatment services. The survey did not examine life safety or physical facility requirements since information on those areas is more readily available through other sources.

The report is an outgrowth of a nine month project under which NARA representative/consultants under contract to the State of Delaware helped to restructure, revise and strengthen that state's licensing regulations governing residential child care facilities of all types and day treatment programs. In that regard, NARA expresses its appreciation to Delaware licensing officials for enabling the association to conduct this research and record its findings.

This report presents comparison information across states on some of the important issues identified in the following areas:

Regulatory Structure and Choice of Requirements
Staff Qualifications
Training
Staff:Child Ratios
Service Plans
Child Labor
Behavior Management
Regulated Special Programming

All the 50 states and the District of Columbia were contacted and asked to send the researchers copies of their child welfare licensing rules for residential facilities and day treatment programs. By the project's cut off date, 39 states had responded - - 35 states forwarded complete sets of licensing rules for residential care and the remaining four provided some information. Each set of rules was reviewed and data on key issues were recorded. An affirmative data point required a specific reference in regulation. If the rules were silent, it was recorded as a negative. The data are reported on the tables in the Appendix.

Summary of Key Licensing Provisions

Regulatory Structure and Choice of Requirements

The data elements chosen for review in this grouping are the availability of variances and waivers, the availability of religious exemptions and the choice of fire safety codes.

For purposes of our review, a variance is defined as official permission to achieve the intent of a rule without meeting the specific requirements of the rule. A waiver removes the obligation to meet the specific requirements of the rule without requiring an alternate plan.

A total of 19 of the 35 fully reporting states make specific reference in their licensing rules to the availability of either a variance or waiver. Variances are more frequently permitted by states so long as the best interests of children are being served and the intent of the regulation is being met. In the few states that permit a full waiver, hardship must be demonstrated by the licensee, children must not be placed at risk by the grant of the waiver and no statutory requirement can be compromised. The State of Texas permits both variance and waiver.

Religious exemption from regulation is quite rare among reporting states. The State of Georgia reports that it does not license church-sponsored programs, but, instead, refers to its review and approval process for religious institutions as "commissioning" the program. Only Missouri provides a full religious exemption.

Using the choice of fire safety code as an indicator of preference, states overwhelmingly prefer state or local building and safety codes over national codes; only two of the reporting states, Colorado and Michigan, elected to use the national fire safety code.

Staff Qualifications

Since the success or failure of a treatment program often depends upon the interactions between staff and children and the quality of their relationships, staff qualifications were examined from two perspectives: educational preparation and experience and personal background.

In most states, direct care staff had to be at least 18 years of age (or the age of majority) and possess either a high school diploma or equivalent. Florida had the most stringent rules, requiring a Bachelor's degree and two years of experience or two years of college and four years of experience.

Professional staff were most often required to have a Master's degree, usually in social work, psychology or a related field. Substitute qualifications included a human services BA with either the requirement of one to three years of prior experience with children or on the job supervision. In this category, the possession of a professional license or certification was sometimes required.

The greatest variation occurred in the administrator class, which ranged from the minimum set by Nevada which required a high school diploma and two years experience to Virginia which required a Ph.D. or Master's degree with at least two years of experience. Texas has created a special license for the administrators of child caring institutions.

An overwhelming majority of the reporting states made specific reference to examining the criminal history of all staff and volunteers who have contact with children. In some cases, a formal criminal history check was completed, requiring the submission of fingerprints to the state policy agency; in others, the application for employment required disclosure of all crimes other than traffic offenses and misdemeanors. The majority of the states also made provisions for performing a child abuse central registry check.

A total of 22 states required the submission of letters of reference -- most often two or three -- including employer references; the State of Nevada requires five. Again, all staff members and volunteers who have contact with children were subject to this regulation.

Training

Even the most qualified staff require professional training and support and a substantial majority of the reporting states recognized this need by requiring both orientation and in-service training. Some 27 states specifically require an orientation for new staff to familiarize them with institutional operations prior to their first contact with children. A total of 30 of the 35 reporting states require in-service training; when specified, the mandatory hours range from six hours to 50 hours annually.

Staff:Child Ratios

Staff:child ratios acknowledge that the primary responsibility and central concern of residential facilities is meeting the needs of children. The ratios are age dependent and reflect differing developmental levels and the need for supervision. The majority of states has developed ratios based on two age groupings: infants through age five and age six and over.

For children between infancy and age six, Pennsylvania has the strongest ratio, 1:2 for children through age two; a number of states have a 1:10 ratio in this age group. For children age six and over, the ratios vary from 1:4 in Utah to 1:12 in Illinois, Indiana and Oklahoma. The mode for this age group is 1:10. Louisiana and Massachusetts do not establish staff:child ratios and require only that adequate staff be present to assure the care, protection and supervision of children.

Service Plans

Eleven of the reporting states have established a minimum age for placement; two states prohibit the placement of children younger than three years of age, one has established five years of age as the minimum; six states will not permit the placement of children younger than six years of age and two use seven years of age.. Exceptions are permitted to keep sibling groups together and to meet emergency needs of children. Twenty-four states do not specifically identify a minimum age for admission to a residential program.

A majority of states specifically requires the development of an individualized service plan for each child in placement and provides a detailed description of its contents. Twenty four states require that the plan be developed only for the child in care; 11 states include either a specific requirement that a family plan be developed or include family work among plan requirements. 22 states require a written visitation plan and 19 require the development of an aftercare plan prior to discharge.

Child Labor

In 26 states, children in care are both expected to share in the chores necessary to maintain their residence and permitted to work outside their residence. In 17 of those states, there is a specific prohibition in regulation against using children in place of paid staff or volunteers. Where outside work is permitted, the job must reflect the child's abilities, the hours must be reasonable and cannot interfere with programming, education, and recreation time and must respect the child labor laws. Missouri requires the payment of the prevailing wage and Virginia requires the payment of minimum wage for all work, other than routine chores, whether within or outside the residential facility.

Behavior Management

All reporting states require a written plan for behavior management that is available to all staff and volunteers, children and their parent(s). Discipline policies generally are required to be educational and non-punitive and frequently specifically prohibit hitting in any form, ridicule and humiliation as forms of discipline. Many prohibit youth from disciplining each other except as part of an approved self-governing treatment program. In most states, prior approval of the licensing authority is nearly always required prior to the use of locked isolation or any form of restraint other than passive physical restraint.

Chemical restraint, the most restrictive of all restraints because it cannot be removed as simply as can physical or mechanical restraints, is the most proscribed and is specifically prohibited in 14 states; in the five states in which it is specifically permitted, it requires prior department approval and can be utilized only under a physician's supervision and never for purposes of discipline.

Regulated Special Programming

Shelter and maternity care are the most common special programs licensed by state licensing offices. A few states have adopted special licensing rules for substance abuse programs, crisis centers, runaway homes, respite care centers, secure care facilities, independent living/transitional living programs, adventure programs and outdoor experiential programs. Eight states report special licensing for day treatment programs through their child welfare licensing programs, four states license day treatment programs through their mental health department and one state uses contracting to establish criteria for its day treatment programs.

Conclusion

While there are no uniform national approaches to the licensing of residential and day treatment programs for children and youth apparent from this review of the child welfare licensing rules of 35 states, consensus among many states emerges around issues of child safety. Background investigations, often including central registry checks and fingerprinting, are required of staff in most states and often of volunteers, as well, who will have significant contact with children. Training is fairly universally recognized as important, with nearly every reporting state requiring both an orientation program and continuing education on an annual basis for all staff.

Although there is a great deal of variance in the types of behavior management permitted and the circumstances under which it can be utilized, there is a nearly uniform requirement that a written policy be developed and published. Frequently the written policy must also be provided to the child or youth and their family.

The importance of family in treatment is also recognized. Approximately 1 in 3 states require the service plan to include both child and family. In those states which limit the service plan to the child or youth, facilitation of family visitation is often required.

Comparative Study: Residential Facilities and Day Treatment Programs/State Child Welfare Licensing Requirements was prepared by:

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Background Checks and References

	Criminal History	Fingerprints	Central Registry	References/Number	Volunteers Included
Alabama	Yes		Yes	Yes - 3	Yes
Alaska	Yes	Yes	Yes		Yes
Arizona					
Arkansas					
California	Yes		Yes		Yes
Colorado	Yes		Yes		Yes
Connecticut					
Delaware	Yes	Yes	Yes	Yes	Yes
District of Columbia					
Florida	Yes	Yes	Yes	Yes - 2	Yes
Georgia	Yes	Yes*	Yes	Yes	
Hawaii					
Idaho	Yes		Yes		
Illinois	Yes				
Indiana	Yes				Yes
Iowa	Yes		Yes	Yes - 2	Yes
Kansas			Yes	Yes	Yes

	Criminal History	Fingerprints	Central Registry	References/Number	Volunteers Included
Kentucky	Yes		Yes		
Louisiana				Yes - 3	Yes
Maine					
Maryland					
Massachusetts				Yes	Yes
Michigan				Yes - 3	
Minnesota					
Mississippi	Yes		Yes	Yes - 4	Yes
Missouri	Yes		Yes	Yes	Yes
Montana					
Nebraska	Yes				
Nevada	Yes	Yes	Yes	Yes - 5	
New Hampshire					
New Jersey	Yes			Yes - 2	Yes
New Mexico					
New York					
North Carolina	Yes	Yes	Yes	Yes - 3	Yes
North Dakota					

	Criminal History	Fingerprints	Central Registry	References/Number	Volunteers Included
Ohio					
Oklahoma	Yes		Yes	Yes - 3	Yes
Oregon	Yes		Yes		
Pennsylvania	Yes		Yes	Yes - 3	Yes
Rhode Island					
South Carolina					
South Dakota	Yes		Yes	Yes - 3	Yes
Tennessee			Yes	Yes - 3	Yes
Texas	Yes				
Utah	Yes	Yes	Yes	Yes	Yes
Vermont	Yes			Yes	
Virginia				Yes	Yes
Washington	Yes		Yes		Yes
West Virginia				Yes - 3	Yes
Wisconsin	Yes			Yes	Yes
Wyoming					

*Director Only

Staff Qualifications

	Minimum Age Direct Care	**Direct Care** Degree/Experience	**Professional Staff** Degree/Experience	**Administrators** Degree/Experience
Alabama	19	HS or GED	Licensed as appropriate	Hum Svcs BA/2 years
Alaska	18*	Not specified	Not specified	60 semester hours in Hum Svcs
Arizona				
Arkansas				
California	18	Rule not available	Rule not available	Varies by number of children 13+:MA in Behav Sci/1 yr admin exp MA/2 years as soc worker BA/3 yr admin exp 2 yr ed/5 yr admin exp <12:MA in Behav Sci/1 yr admin exp BA/1 yr admin exp 2 yr ed/2 yr exp HS/3 yr exp
Colorado	21	2yrs college; or HS/1 yr exp	Licensed as appropriate	MA/2 yr exp; or BA/3 yr exp
Connecticut				
Delaware	21	HS or GED	Licensed as appropriate	MA in Hum Svcs/2 yr exp BA/4 yrs exp
District of Columbia (Day TX)			Licensed as appropriate	BA/1 yr exp
Florida	18	Not specified	MSW or related fld/2 yr exp 2 yr college/4 yr exp	BA/3 yr exp

	Minimum Age Direct Care	Direct Care Degree/Experience	Professional Staff Degree/Experience	Administration Degree Experience
Georgia	21	HS or GED	MA; or BA in Hum Svcs/2 yr exp	MA/2 yr exp BA/4 yr exp
Hawaii				
Idaho		Not specified	Acceptable practice standards	BA/2yr exp w/children and 3 yr admin/supv exp
Illinois	21	HS or GED	License or registration	MA/3 yr exp BA in Hum Svcs/5 yr exp
Indiana	21	HS or GED	MA in Hum Svcs BA, if supv by MA	MA in Hum Svcs BA/2 yr exp
Iowa	18	Not specified	BA in Beh Sci/2 yr exp; or BSW/1 yr exp; or 6 yr exp supv child welfare	Not specified
Kansas	18	HS or GED	BA	Not specified
Kentucky	18	HS or GED	BA	MA in Hum Svcs/2 yr exp
Louisiana		Qualified	License or certification as required by law	
Maine	18	HS or GED	Not specified	Varies by number of children cared for from Age 18 and 6 hrs training to BA/MA and 1 yr exp
Maryland	18	Not Specified	Not specified	HS/GED/6 sem hrs or CDA Certificate

	Minimum Age Direct Care	Direct Care Degree/Experience	Professional Staff Degree/Experience	Administration Degree/Experience
Massachusetts				
Michigan		HS Completion	BA in Hum Svcs	MA in Hum Svcs/2 yr; or BA in Hum Svcs/4 yr
Minnesota	21	HS or GED	License or Registration	BA
Mississippi	21	HS or GED	License or Registration; and MA in Hum Svcs; or BA/2 yr exp	MA in Hum Svcs/2 yr; or BA/4 yr
Missouri	21	HS or GED	MA; or BA if supv by MA	MA/2 yr; or BA/4 yr
Montana				
Nebraska	Majority	Not specified	2 yrs grad trng/2 yr exp; or 1 yr grad trng/3 yr exp	Broad experience, training and ability
Nevada	21	Not specified	Not specified	Not specified
New Hampshire				
New Jersey	18	HS or GED/1 yr exp; BA or AD in SW ; or BA or AD/6 mos exp	BA/1 yr exp; or Cert/Licensed SW	Age 21 and MA/3 yr exp BA/4 yr exp
New Mexico				
New York				
North Carolina	18	Qualified by education, training and experience for all positions		

	Minimum Age Direct Care	Direct Care Degree/Experience	Professional Staff Degree/Experience	Administration Degree/Experience
North Dakota				
Ohio				
Oklahoma	21	HS or GED	BA in Hum Svcs	Ph.D/1 yr exp; or MSW/2 yr exp; or MA/3 yr exp; or BA in Hum Svcs/5 yr exp
Oregon	18	Demonstrated ability to work with children	Not specified	Appropriate knowledge and ability
Pennsylvania	21	1/2 staff must have	Not specified	BA/4 yr exp
Rhode Island				
South Carolina				
South Dakota	18	Must be supervised to age 21	Not specified	MA/2 yr exp, or BA/4 yr exp
Tennessee	18	HS or GED	BA in Hum Svcs	BA in Hum Svcs/10 yrs exp
Texas	18	HS or GED	Not specified	CCA License/Texas
Utah		Not specified	License or certification	Not specified
Vermont		Qualified	License or certification	Not specified
Virginia	18	HS or GED	Not specified	Ph.D. or MA or BA/2 yr exp

	Minimum Age Direct Care	Direct Care Degree/Experience	Professional Staff Degree/Experience	Administration Degree/Experience
Washington		Not specified	MA in Hum Svcs; or BA with MA supervision	Not specified
West Virginia	Majority	HS or GED; or	BA in Hum Svcs	MA in Hum Svcs/2 yr exp; or BA/5 yr exp
Wisconsin	18*	HS or GED	MA; or BA/2 yrs exp	BA/2 yr exp
Wyoming				

*Direct care staff must be at least 2 years older than the oldest resident.