



14 NYCRR Parts 583 and 584

Terms

PART 583  
RESIDENTIAL TREATMENT FACILITIES  
FOR CHILDREN AND YOUTH; ELIGIBILITY

A new Part 583 is added as follows:

583.1 Background and intent

583.2 Legal base

583.3 Applicability

583.4 Definitions

583.5 Residential Treatment Facility (RTF) Eligibility and Authorization Requirements

583.6 Responsibilities of the Office or Commissioner's designee

**Section 583.1 Background and intent.**

(a) Chapter 947 of the Laws of 1981 authorized the establishment of residential treatment facilities for children and youth.

(b) The purpose of residential treatment facilities for children and youth (RTF) is to provide comprehensive and intensive mental health services under the supervision of a physician for children and youth who have attained their 5th birthday and have not, in most cases, attained their 21st birthday and who are in need of inpatient treatment in a residential setting. Such RTF shall be consistent with the federal conditions of participation with Psychiatric Residential Treatment Facilities (PRTF)

(c) The purpose of these regulations is to provide for the establishment of procedures for accessing residential treatment facility services, a Medicaid eligible service; to articulate the criteria for determining eligibility of an individual to apply for admission or transfer to a specific residential treatment facility for children and youth; and

to specify the procedures to be used in determining eligibility and priority for admission or transfer to a residential treatment facility for children and youth.

(d) The purpose of the procedures for accessing residential treatment facility services is to ensure uniform access to residential treatment facilities for children and youth regardless of the current setting or source of referral of a child.

### **583.2 Legal Base**

(a) Sections 7.09 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under their jurisdiction and to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the retention of services for the mentally ill pursuant to an operating certificate.

(b) Section 9.51 of the Mental Hygiene Law provides that the Office of Mental Health will establish standards and priorities for residential treatment facilities for children and youth admissions and will evaluate medical necessity for applicants or recipients of medical assistance pursuant to title eleven of article five of the social services law applying to access residential treatment facility services

(c) Section 31.26(c) of the Mental Hygiene Law provides for the commissioner to authorize the operation of residential treatment facilities for children and youth. The statute also provides that the commissioner shall have the power to adopt rules and regulations governing the establishment and operation of residential treatment facilities for children and youth.

### **583.3 Applicability.**

(a) These regulations apply to the application process for access to available residential treatment facility services for children and youth.

### **583.4 Definitions**

(a) Admission criteria are those factors of psychopathology, activities of daily living skills, age and intelligence quotient, in addition to the office's eligibility criteria for access to residential treatment facility services, which are identified for use by a specific residential treatment facility to determine acceptance of applications for admission or transfer.

(b) Child or youth is an individual who has passed at least their 5<sup>th</sup> birthday, and who has not yet reached their 22<sup>nd</sup> birthday.

(c) Committee on Special Education is a multidisciplinary team established in accordance with the provisions of the New York State Education law to evaluate each child or youth with educational disabilities who resides within a school district.

(d) Designated mental illness means a disruption of cognitive, emotional, or behavioral functioning, which can be classified and diagnosed using the *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, or the *International Classification of Diseases (ICD)*, as incorporated by reference in Part 800 of this Title other than:

(1) substance use disorders in the absences of other mental health conditions defined in the DSM or ICD;

(2) neurodevelopmental disorders in the absence of other mental health conditions;

(3) major neurocognitive disorders in the absence of other mental health conditions defined in the DSM or ICD except Attention-Deficit/Hyperactivity Disorder or Tic Disorders ; or

(4) other conditions that may be a focus of clinical attention (commonly described with Z codes), except Parent-Child Relational Problem (V61.20/Z62.820) for child or youth.

(e) Eligibility Criteria means personal attributes and characteristics that an individual must have to access residential treatment facility services.

(f) Likelihood of serious harm is a substantial risk of physical harm to other persons as manifested by recent homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.

(g) Medical Necessity Criteria shall refer to criteria for access to residential treatment facility services set forth by the office or commissioner's designee, where minimally, outpatient, community-based, and other out of home interventions available, do not meet the treatment needs of the child or youth, the child or youth is experiencing a severity of psychiatric need which requires proper care and treatment of the child or youth's psychiatric condition on an inpatient basis in a residential treatment facility under the direction of a physician, and care and treatment provided by residential treatment facility services can reasonably be expected to improve the child or youth's condition or prevent further regression so that residential treatment facility services will no longer be needed.

(h) Office shall refer to the Office of Mental Health.

(i) Serious emotional disturbance means the child or youth has a designated mental illness diagnosis according to the *Diagnostic and Statistical Manual of Mental Disorders (DSM)* as incorporated by reference in Part 800 of this Title, and has experienced functional limitations due to emotional disturbance over the past 12 months on a continuous or intermittent basis. The functional limitations must be moderate in at least two of the following areas or severe in at least one of the following areas:

(1) ability to care for self (e.g., personal hygiene; obtaining and eating food; dressing; avoiding injuries);  
or

(2) family life (e.g., capacity to live in a family or family like environment; relationships with parents or substitute parents, siblings and other relatives; behavior in family setting); or

- (3) social relationships (e.g., establishing and maintaining friendships; interpersonal interactions with peers, neighbors and other adults; social skills; compliance with social norms; play and appropriate use of leisure time); or
- (4) self-direction/self-control (e.g., ability to sustain focused attention for a long enough period of time to permit completion of age-appropriate tasks; behavioral self-control; appropriate judgment and value systems; decision-making ability); or
- (5) ability to learn (e.g., school achievement and attendance; receptive and expressive language; relationships with teachers; behavior in school).

### **583.5 RTF Eligibility and Authorization Requirements**

(a) Applications for an eligibility determination and authorization to access residential treatment facility services shall be in a form and format specified by the office or commissioner's designee.

(b) In order for a child or youth to be found eligible and authorized to access residential treatment services they must meet the following criteria:

- (1) be between the age of 5 years old and 20 years old;
- (2) have an intelligence quotient equal to or greater than 51;
- (3) meet the criteria for voluntary admission in accordance with section 9.13 of the Mental Hygiene Law;
- (4) have a current primary diagnosis of a designated mental illness;
- (5) meet criteria for serious emotional disturbance; and
- (6) meet all medical necessity criteria for residential treatment facility services.

(i) Medical necessity criteria determinations shall comply with the Code of Federal Regulations, title 42, section 441.153 as incorporated by reference in Part 502.2 of this Title. Medical necessity criteria shall also meet the CFR 42 section 441.152 Certification of Need requirements where the child or youth is an applicant or recipient of medical assistance pursuant to Social Services Law, title 11, article 5 as incorporated by reference in Part 502.2 of this Title.

(ii) Medical Necessity criteria includes the following:

- (a) outpatient, community-based, and other out of home interventions available, do not meet the treatment needs of the child or youth;
- (b) the child or youth is experiencing a severity of psychiatric need which requires proper care and treatment of the child or youth's psychiatric condition on an inpatient basis in a residential treatment facility under the direction of a physician;

(c) care and treatment provided by residential treatment facility services can reasonably be expected to improve the child or youth's condition or prevent further regression so that residential treatment facility services will no longer be needed, provided that a poor prognosis shall not in itself constitute grounds for a denial of determination of eligibility if treatment in a residential treatment facility offers can be expected to effect a change in prognosis.

(c) Eligibility criteria to obtain authorization to access residential treatment facility services delivered by a residential treatment facility developed in collaboration with the office and the Office for People With Developmental Disabilities, to serve children or youth with a designated mental illness and an intellectual and/or development disability, shall be exempt from paragraphs (2) and (4) of subdivision (b) of this section.

### **583.6 Responsibilities of the Office or Commissioner's designee**

(a) The office or the commissioner's designee shall receive all applications for authorization to access residential treatment facility services.

(1) The office or the commissioner's designee shall review applications for authorization to access residential treatment facility services for completeness in accordance with standards and procedures established by office or commissioner's designee within seven business days of receipt of the application.

(b) Prior to a residential treatment facility admission, and as frequently as the office or commissioner's designee deems necessary, the office or commissioner's designee shall evaluate each complete application for authorization by a child or youth applicant or recipient of medical assistance, pursuant to Social Services Law title 11, article 5, to determine their eligibility for accessing residential treatment facilities. The eligibility review to determine whether such child or youth meets the eligibility criteria shall be conducted in accordance with this Part and as specified in standards and procedures established by the office or commissioner's designee.

(1) The eligibility reviews shall include an assessment of educational needs. When an assessment of a child or youth's educational needs is required and is not available from a committee on special education, the office or commissioner's designee shall request such assessment from the appropriate committee on special education, in accordance with Education Law section 4003.5. For the purposes of this Part, the appropriate committee on special education shall be the committee on special education of the school district of residence at the time of the application for eligibility.

(c) Upon completion of the eligibility review, the office or the commissioner's designee shall notify the child or youth, child or youth's legally authorized representative, the referral source, and Local Government Unit in writing that:

(1) the child or youth meets the eligibility criteria and has authorization to access residential treatment facility services; or

(2) the application requires additional documentation in order to make a determination regarding eligibility for authorization to access residential treatment facility services. Such notice shall include the timeframe in which the additional information must be submitted for consideration to the office or commissioner's designee. Additional time to submit documentation may be requested in writing to the office or commissioner's designee, by the child or youth's legally authorized representative, for a period not to exceed an additional 30 calendar days from the date on the notification. Such extension, if approved, will be confirmed by the office or commissioner's designee in writing. If additional information is not submitted in the requested timeframe or extended time frame, the office or commissioner's designee shall consider the application incomplete and issue an administrative denial; or

(3) the child or youth does not meet eligibility criteria and is not authorized to access residential treatment facility services.

(i) The office or commissioner's designee shall provide the child or youth, child or youth's legally authorized representative, the referral source, and Local Government Unit with a notice detailing the right to request a reconsideration of the denial within 30 days of the notice date.

(ii) If a request for reconsideration is received within 30 days of the notice date, the office or commissioner's designee shall complete a reconsideration of eligibility review.

(iii) After the reconsideration review is completed, the office or the commissioner's designee shall notify the child or youth, child or youth's legally authorized representative, the referral source, and Local Government Unit in writing that:

(a) the child or youth meets the eligibility criteria and is authorized to access residential treatment facility services; or

(b) the application requires additional documentation in order to make a determination regarding eligibility for authorization to access residential treatment facility services. Such notice shall include the timeframe in which the additional information must be submitted for consideration to the office or commissioner's designee. If additional information is not submitted in the requested timeframe the office or commissioner's designee shall consider the application incomplete and issue an administrative denial; or

(c) the child or youth does not meet eligibility criteria and is not authorized to access residential treatment facility services.

(1) The office or commissioner's designee shall inform the child or youth and the child or youth's legally authorized representative of the right to request a Medicaid fair hearing within 60 days of the notice.

(2) Such fair hearings shall be adjudicated in accordance with 18 NYCRR 358-2.30 and 18 NYCRR 358-5, and any procedures used by the entity conducting the hearing.

(d) Where a child or youth receives an authorization to access residential treatment facility services and the child or youth has not been admitted to a residential treatment facility, or the authorization was subsequently suspended, the office or commissioner's designee shall conduct additional reviews to reconfirm eligibility in accordance with standards and procedures established by the office. If a child or youth is found eligible, the office or commissioner's designee shall issue an authorization and send the authorized application to the residential treatment facilities that would best be able to serve the child or youth's needs based upon the facility's admission criteria.

(1) To conduct a reconfirmation of eligibility review, the office or the commissioner's designee shall request a written update of the child or youth's status in a form, substance and timeframe to be established by the office or commissioner's designee. If a written update is not provided as required by the office or commissioner's designee, the application shall be considered incomplete and an administrative denial shall be issued.

(2) The office or commissioner's designee shall base its reconfirmation of eligibility on a review of the documentation provided.

(3) Notification of eligibility will be completed in accordance with subdivision (c) of this section

(e) Where the office or commissioner's designee has authorized a child or youth for access to residential treatment facility services and the child or youth is expected to be temporarily unavailable for admission, the child or youth's authorization shall be suspended for a period of time as determined by the office. To end the suspension of an authorization, the office or commissioner's designee shall conduct a review to reconfirm eligibility in accordance with this subdivision (d) of this section.

PART 584  
OPERATION OF RESIDENTIAL TREATMENT FACILITIES  
FOR CHILDREN AND YOUTH

Part 584 is amended as follows:

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**Section 584.1 Background and intent.**

- (a) Chapter 947 of the Laws of 1981 authorized the establishment of residential treatment facilities for children and youth.
- (b) The purpose of residential treatment facilities for children and youth is to provide comprehensive mental health services under the supervision of a physician for children and youth who have attained ~~[his/her]~~ their 5th birthday and have not, in most cases, attained ~~[his/her]~~ their 21st birthday and who are in need of ~~[long-term]~~ inpatient treatment in a residential setting.
- (c) Residential treatment facilities for children and youth are not intended for children and youth who:
  - (1) present a likelihood of serious harm to others as defined in section 9.01 of the Mental Hygiene Law;
  - or
  - (2) have a primary diagnosis of intellectual disability ~~[mental retardation]~~ or developmental disability unless the residential treatment facility unit(s) was developed in collaboration by the Office of Mental



Health and the Office for People With Developmental Disabilities to serve children with a designated mental illness and an intellectual and/or development disability.

(d) The purpose of these regulations is to describe requirements for the establishment and operation of residential treatment facilities for children and youth; outline the requirements for admissions, transfers and discharge; and specify the requirements for staffing, services, treatment planning, quality assurance and recordkeeping.

(e) These regulations provide for the active involvement, to the extent possible, of the family or guardian of a child or youth in all aspects of the care and treatment of that child or youth.

**584.2 Legal base.**

(a) Sections 7.09 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under [his/her] their jurisdiction and to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of services for persons with mental illness, pursuant to an operating certificate.

(b) Section 31.26 of the Mental Hygiene Law provides for the establishment of the subclass of hospitals known as residential treatment facilities for children and youth which provide active treatment under the direction of a physician for individuals who are under 21 years of age.

(c) Section 31.02 of the Mental Hygiene Law prohibits any individual, association, corporation or public or private agency from operating a residential facility, hospital or institution for the examination, diagnosis, care, treatment, rehabilitation or training of persons with mental illness unless an operating certificate has been obtained from the commissioner of the Office of Mental Health.

(d) Sections 31.05, 31.07, 31.09, 31.11 and 31.19 of the Mental Hygiene Law authorize the commissioner or ~~[his or her]~~ their representative to examine and inspect such facilities to determine their suitability and operation. Sections 31.16 and 31.17 authorize the commissioner to suspend, revoke or limit any operating certificate.

**584.3 Applicability.**

(a) These regulations apply to any provider of services which operates or proposes to operate a residential treatment facility for children and youth. Such facilities are a subclass of hospitals pursuant to section 1.03 of the Mental Hygiene Law.

(b) These regulations do not apply to hospitals operated by the Office of Mental Health, or to hospitals issued an operating certificate by the Office of Mental Health pursuant to Part 582 of this Title.

**584.4 Definitions pertaining to this Part.**

(a) General

(1) Admission criteria are those factors of psychopathology, activities of daily living skills, age, gender, and intelligence quotient, in addition to the office's eligibility criteria for access to residential treatment facility services, which are identified for use ~~[in determining a child's eligibility]~~ by a specific residential treatment facility to determine whether to accept a child or youth's application ~~[eligibility]~~ for admission or transfer ~~[to a residential treatment facility]~~.

(2) Alternate care determination is a decision made by the Office of Mental Health or the commissioner's designee, that a child or youth who has been receiving residential treatment facility services no longer meets medical necessity for continued access to residential treatment facility services. ~~[utilization review committee decision that another specifically identified method of care or no care is more appropriate than the method being provided. This decision is the result of a utilization review committee evaluation of a resident, in person or through review of the resident's case record, against criteria for continued stay in the residential treatment facility program.]~~

(3) Case records are those reports which contain information on all matters relating to the admission, legal status, assessment, treatment planning, treatment and discharge of the resident, and shall include all pertinent documents relating to the resident.

(4) Child or youth is an individual who has passed at least ~~[his/her]~~ their 5th birthday, and who has not yet reached ~~[his/her]~~ their 22nd birthday.

(5) Clinical staff are all staff members who provide services directly to residents and their families or legal guardian. Clinical staff shall include professional staff, paraprofessional staff and other nonprofessional staff.

(6) Continued stay criteria are those factors of psychopathology, activities of daily living skills and age which are identified for use in determining the eligibility and medical necessity ~~[and appropriateness]~~ of a ~~[the]~~ resident's continued access ~~[placement]~~ to residential treatment facility services. These factors shall provide the basis for determining that the resident continues to meet the admission criteria of the residential treatment facility. Such evidence shall be directly observed and documented by staff of the residential treatment facility or be documented in reports of hospital or therapeutic leaves. ~~[trial visits to the home or to less restrictive settings.]~~

(7) Designated mental illness means a disruption of cognitive, emotional, or behavioral functioning, which can be classified and diagnosed using the *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, or the *International Classification of Diseases (ICD)* as incorporated by reference in Part 800 of this Title, other than:

(i) substance use disorders in the absences of other mental health conditions defined in the DSM or ICD;

(ii) neurodevelopmental disorders in the absence of other mental health conditions;

(iii) major neurocognitive disorders in the absence of other mental health conditions defined in the DSM or ICD except Attention-Deficit/Hyperactivity Disorder or Tic Disorders ; or

(iv) other conditions that may be a focus of clinical attention (commonly described with Z codes), except Parent-Child Relational Problem (V61.20/Z62.820) for child or youth.

~~(7)8~~ Education records means those reports which contain information on all matters relating to the education of the resident, and shall include all pertinent documents. For children or youth determined to have an educational [handicapping condition] disability classification by a committee on special education ~~[the handicapped]~~, the education record shall contain the individualized education program. Education records shall be separate and distinct from the case record.

(9) Eligibility criteria means personal attributes and characteristics that an individual needs to have in order to access residential treatment facility services.

(10) Medical necessity criteria shall refer to criteria for access to residential treatment facility services set forth by the office or commissioner's designee, where minimally, outpatient, community-based, and other out of home interventions available, do not meet the treatment needs of the child or youth, the child or youth is experiencing a severity of psychiatric need which requires proper care and treatment of the child or youth's psychiatric condition on an inpatient basis in a residential treatment facility under the direction of a physician, and care and treatment provided by residential treatment facility services can reasonably be expected to improve the child or youth's condition or prevent further regression so that residential treatment facility services will no longer be needed.

~~[(8) Mental illness means an affliction with a mental disease or mental condition which is manifested by a disorder or disturbance in behavior, feeling, thinking or judgment to such an extent that the person afflicted requires care, treatment and rehabilitation.]~~

~~[(9) Preadmission certification committee is a committee, established and operated pursuant to the provisions of Part 583 of this Title, whose purpose is to determine the eligibility of children for placement in a residential treatment facility and to certify children as priority for admission to a residential treatment facility.]~~

~~(10)1~~ Provider of services means the organization ~~[which]~~that is legally responsible for the operation of a program, licensed by the office. The organization may be an individual, partnership, association, corporation, public agency, or a psychiatric center or institute operated by the Office of Mental Health.

~~(14)2~~ Residential treatment facility is an inpatient psychiatric facility which is family centered and provides active care and treatment under the direction of a physician for children or youth who are under 21 years of age and is issued an operating certificate pursuant to this Part.

~~(2)3~~ Restraint means "restraint" as such term is defined in section 526.4(a) of this Title.

~~(3)4~~ Seclusion means "seclusion" as such term is defined in section 526.4(a) of this Title.

(15) Serious emotional disturbance means a child or youth has a designated mental illness diagnosis according to the most current Diagnostic and Statistical Manual of Mental Disorders (DSM) and has experienced functional limitations due to emotional disturbance over the past 12 months on a continuous or intermittent basis. The functional limitations must be moderate in at least two of the following areas or severe in at least one of the following areas:

(i) ability to care for self (e.g., personal hygiene; obtaining and eating food; dressing; avoiding injuries);  
or

(ii) family life (e.g., capacity to live in a family or family like environment; relationships with parents or substitute parents, siblings and other relatives; behavior in family setting); or

(iii) social relationships (e.g., establishing and maintaining friendships; interpersonal interactions with peers, neighbors and other adults; social skills; compliance with social norms; play and appropriate use of leisure time); or

(iv) self-direction/self-control (e.g., ability to sustain focused attention for a long enough period of time to permit completion of age-appropriate tasks; behavioral self-control; appropriate judgment and value systems; decision-making ability); or

(v) ability to learn (e.g., school achievement and attendance; receptive and expressive language; relationships with teachers; behavior in school).

(1[4]6) Time-out means "time out" as such term is defined in section 526.4(a) of this Title.

(b) Services.

(1) Case coordination services are activities to assure the full integration of all services provided to each resident. Case coordination activities include, but are not limited to, monitoring the resident's daily functioning to assure the continuity of service in accordance with the resident's treatment plan and e[i]nsuring that all clinical staff responsible for the care and delivery of services actively participate in the development and implementation of the resident's treatment plan.

(2) Dietetic services are services designed to meet the nutritional needs of all residents. Dietetic services include, but are not limited to: [a]ssuringensuring that each resident on a special diet receives the prescribed diet; [i]nsuringensuring food storage and preparation in a safe and sanitary manner; directing the nutritional aspects of resident care; and providing planned menus that reflect the food acceptance of the residents.

(3) Educational and vocational services are those activities the purpose of which is to assist the resident in the acquisition or development of academic and occupational skills.

(4) Medication therapy is the reviewing of the appropriateness of the resident's existing medication regimen through review of the resident's medication record and consultation with the resident and, as appropriate, [h]is/[h]er their family or guardian; prescribing and/or administering medication; and monitoring the effects and side effects of the medication on the resident's mental and physical health.

(5) Physical health services is a comprehensive program of preventive, routine and emergency medical and dental care, and an age-appropriate program of health education.

(6) Task and skill training is a nonvocational activity whose purpose is to enhance a resident's age-appropriate skills necessary to facilitate the resident's ability to care for [himself/herself] themselves and to function effectively in community settings. Task and skill training activities include, but are not limited to: homemaking; personal hygiene; budgeting; shopping; and the use of community resources.

(7) Therapeutic recreation services are planned therapeutic activities whose purposes are: the acquisition or development of social and interpersonal skills; the improvement of the psychomotor and cardiovascular abilities of the residents; the enhancement of the self concept of the residents; the development of healthy, lifelong activities toward participation in recreation and physical activity; and the improvement or maintenance of a resident's capacity for social and/or recreational involvement by providing opportunities for the application of social and/or recreational skills.

(8) Verbal therapies are planned activities whose purpose is to provide formal, individual, family, and group therapies. These therapies include, but are not limited to, psychotherapy and other face-to-face verbal contacts between staff and the resident which are planned to enhance the resident's psychological and social functioning as well as to facilitate the resident's integration into a family unit. Verbal contacts that are incidental to other activities are excluded from this service. Verbal therapy shall include play therapy and other forms of expressive therapy.

(c) Staff qualifications.

(1) Dentist is an individual who is currently licensed as a dentist by the New York State Education Department.

(2) Dietitian is an individual who is either currently registered or eligible for registration by the Commission on Dietetic Registration; or has the documented equivalent in education, training and experience, with evidence of relevant continuing education.

(3) Limited permit physician is an individual who has received from the New York State Education Department a current permit to practice medicine which is limited as to eligibility, practice and duration.

(4) Nurse is an individual who is currently licensed as a registered professional nurse by the New York State Education Department.

(5) Occupational therapist is an individual who is currently licensed as an occupational therapist by the New York State Education Department.

(6) Physician is an individual who is currently licensed to practice medicine by the New York State Education Department.

(7) Psychiatrist is an individual who is currently licensed as a physician by the New York State Education Department and who is certified by, or eligible to be certified by, the American Board of Psychiatry and Neurology as a psychiatrist or a child psychiatrist.

(8) Psychologist is an individual who is currently licensed as a psychologist by the New York State Education Department.

(9) Rehabilitation counselor is an individual who either has a master's degree in rehabilitation counseling from a program approved by the New York State Education Department, or is currently certified by the Commission on Rehabilitation Counselor Certification.

(10) Social worker is an individual who is either currently licensed as a licensed master social worker or as a licensed clinical social worker by the New York State Education Department, or has a master's degree in social work from a program approved by the New York State Education Department.

(11) Speech pathologist is an individual who either has a master's degree in speech pathology or speech and/or language therapy, and [or] who is currently licensed as a speech pathologist by the New York State Education Department.

(12) Therapeutic recreation specialist is an individual who either has a master's degree in therapeutic recreation or in recreation with emphasis in therapeutic recreation from a program approved by the New York State Education Department, or is currently registered as a therapeutic recreation specialist by the National Therapeutic Recreation Society.

(13) Teacher is an individual who is currently licensed as a teacher by the New York State Education Department.

#### **584.5 Certification.**

(a) Each provider of services that intends to operate a residential treatment facility must be issued an operating certificate by the Office of Mental Health prior to the operation of the facility.

(b) Residential treatment facilities may only be operated by not-for-profit corporations.

(c) An operating certificate may be issued to a residential treatment facility which complies with the requirements of these regulations.

(d) The term of the operating certificate shall be determined by the Office of Mental Health, but in no event shall the term exceed three years.

(e) An operating certificate shall be issued for a residential treatment facility for a resident capacity of no fewer than 14 and no more than 56 residents; provided, however, that for the period commencing April 1, 2000 through September 30, 2016, bed capacity for facilities primarily serving New York City residents may be temporarily increased up to an additional ten beds over the maximum certified capacity with the prior approval

of the Commissioner. In order to receive such approval, the residential treatment facility must demonstrate that the additional capacity will be used to serve those children and youth deemed most in need of RTF services ~~[by the New York City Preadmission Certification Committee as set forth in section 583.8 of this Title].~~

(f) A residential treatment facility must provide the full range of services required by section 584.11 of this Part at a single location.

(g) An operating certificate may be limited, suspended, invalidated or revoked by the Office of Mental Health in accordance with the provisions of Part 573 of this Title. Certificates shall remain the property of the Office of Mental Health and invalidated or revoked certificates shall be returned to the Office of Mental Health.

(h) Each operating certificate will specify:

(1) the location of the residential treatment facility;

(2) the term of the operating certificate;

(3) any changes to be made in the operation of the residential treatment facility in order to retain the operating certificate; and

(4) the resident capacity of the residential treatment facility.

(i) In order to receive and retain an operating certificate, a provider of services shall:

(1) submit an application on such forms and such supporting documents as shall be required by the Office of Mental Health;

(2) frame and display the operating certificate within the residential treatment facility in a conspicuous place which is readily accessible to the public;

(3) cooperate with the Office of Mental Health during any review or inspection of the facility or program;

(4) make available to the Office of Mental Health or ~~[its]~~ commissioner's designee upon request all documentation, files, reports, case records, or other materials required by this Part or requested by the Office of Mental Health in the course of visitation and inspection;

(5) undertake changes in the operation of the facility or program as required by the operating certificate;

(6) obtain prior approval of the Office of Mental Health in accordance with the procedures specified in Part 551 of this Title, to:

(i) change the physical location of the residential treatment facility or utilize additional physical locations;

(ii) initiate major changes in the program;

(iii) terminate the program or services in the program; or

(iv) change the powers or purposes set forth in the certificate of incorporation;

(7) comply with site selection requirements of section 41.34 of the Mental Hygiene Law if the residential treatment facility will have a resident capacity of 14 or fewer; and:

(i) is not located on the grounds of a residential facility licensed by ~~[the Department of Social Services or]~~ another State agency; or

(ii) is not a residential facility licensed by ~~[the Department of Social Services or ]~~ another State agency at the time an application is submitted to the Office of Mental Health.

#### **584.6 Organization and administration.**

(a) The provider of services shall identify the individuals who have overall responsibility for the operation of the residential treatment facility. These individuals shall be known as the governing body. No individual shall serve as both a member of the governing body and of the paid staff of the residential treatment facility without the prior approval of the Office of Mental Health.

(b) The provider of services shall assure that the residential treatment facility has space, programs, staff and policies and procedures that are separately identifiable from any other programs which may be operated by the provider of services.

(c) The governing body shall meet on a regular basis, in no event less often than quarterly, and shall maintain written minutes of all meetings as a permanent record of the decisions made in relation to the operation of the residential treatment facility. The minutes shall be reviewed and approved by the governing body.

(d) The governing body shall approve a written plan or plans that, at a minimum, address the following aspects of the operation of the residential treatment facility:

(1) the goals and objectives of the residential treatment facility, including the admission and discharge criteria and a statement of the involvement of the family;

(2) the plan of organization that clearly indicates lines of responsibility;

(3) a written plan for services and staff composition which:

(i) includes the qualifications and duties of each staff position by title, and addresses all essential aspects of the operation of the residential treatment facility including clinical, administration, fiscal, clerical, housekeeping, maintenance, dietetic, and recordkeeping and reporting functions; and

(ii) specifies all services available through the residential treatment facility including the treatment program and environment;

(4) the written quality assurance plan; and

(5) the written utilization review plan.

(e) The governing body shall approve written policies and procedures of the residential treatment facility, including but not limited to:

(1) Admission, transfer, continued stay and discharge policies and procedures.

(2) The governing body shall develop, and revise as necessary, written policies for the quantity, quality, scope, goals, objectives and evaluation of all programs, policies for the accomplishment of stated purposes, and personnel policies. Personnel policies shall prohibit discrimination on the basis of race, color, creed, disability, sex, gender identity, marital status, age, [or] national origin, sexual orientation, military status, domestic



violence victim status, disability, pregnancy-related condition, predisposing genetic characteristics, prior arrest or conviction record or familial status. Personnel policies and procedures shall provide for verification of employment history, personal references, work record and qualifications, as well as requesting the Justice Center for the Protection of Persons with Special Needs to perform criminal history record checks in accordance with Part 550 of this Title.

(3) Staff training and development policies and procedures. Such policies and procedures shall address preemployment orientation, ongoing staff development and training which shall include child or youth abuse prevention and identification, safety and security procedures, the principles of child or youth development, use of physical intervention, techniques of group and child or youth management, the laws and regulations governing the protection of children from child abuse and maltreatment.

(4) The governing body shall establish written volunteer policies and procedures. Such policies and procedures shall provide for screening of volunteers and verification of employment history, personal references and work history; supervision of volunteers; training in accordance with paragraph (3) of this subdivision. Such policies shall also provide for requesting the Justice Center for the Protection of Persons with Special Needs to perform criminal history record checks in accordance with Part 550 of this Title.

(5) Prescription and administration of medication policies and procedures. Such policies and procedures shall be consistent with applicable Federal and State laws and regulations.

(6) Case record policies and procedures. Such policies and procedures shall ensure confidentiality of patient records in accordance with the Mental Hygiene Law and shall ensure appropriate retention of case records.

(f) The governing body shall review the written plan or plans and policies and procedures required pursuant to subdivisions (d) and (e) of this section at least annually and shall make appropriate amendments or revisions.

(g) The governing body may delegate responsibility for the day-to-day management of the residential treatment facility in accordance with the written plan of organization provided for in paragraph (d)(2) of this section.

(1) Ongoing direction may be delegated to an individual who shall be known as the director and who shall meet the qualifications specified in section 584.10(d) of this Part.

(2) The director shall be employed by the residential treatment facility at least one half of the hours of a full-time employee.

(3) Administrative direction may be the responsibility of the director or may be delegated by the governing body to an individual who shall meet qualifications that are acceptable to the Office of Mental Health.

(h) The residential treatment facility shall participate with the local governmental unit in local planning processes. At a minimum, participation shall include:

- (1) provision of budgeting and planning data as requested by the local governmental unit;
- (2) identification of the population being served by the residential treatment facility;
- (3) identification of the geographic area being served;

(4) description of the relationship to other providers of services which serve the same geographic area, including but not limited to written agreements to ensure expeditious access to programs by persons who need them. At a minimum, these agreements shall provide for prompt referral, evaluation and, as necessary, admission to cooperating programs, and for sharing information about residents being served; and  
(5) attendance at planning meetings as may reasonably be required by the local governmental unit.

(i) The residential treatment facility shall provide for the following:

(1) an annual written evaluation of the residential treatment facility's attainment of its stated goals and objectives which indicates any required changes in policies and procedures;

(2) an annual audit of the financial condition and accounts of the residential treatment facility performed by a certified public accountant who is not a member of the governing body or an employee of the residential treatment facility;

(3) emergency evacuation plans for the building in which the residential treatment facility is located. Evacuation plans shall address emergencies resulting from fire as well as potential hazards in the geographic area in which the residential treatment facility is located; and

(4) up-to-date copies of any regulations, guidelines, manuals, or other information required by the Office of Mental Health.

**584.7 Admission, Continued Stay and discharge criteria.**

(a) Each residential treatment facility shall maintain written admission, continued stay and discharge criteria ~~[which are consistent with its goals and objectives and]~~ which are subject to the approval of the Office of Mental Health.

(b) The admission criteria must, at a minimum, provide that Office of Mental Health or commissioner's designee has determined that an individual child or youth is eligible and authorized to access residential treatment facility services pursuant to Part 583 of this Title. ~~[that the child meet each of the following criteria:]~~

~~[(1) identification of a serious and persistent psychopathology as evidenced by:~~

~~-(i) severe thought disorder;~~

~~-(ii) severe affective disorder;~~

~~-(iii) moderate thought disorder in conjunction with an impulse control disorder or a deficit in activities of daily living skills;~~

~~-(iv) moderate affective disorder in conjunction with an impulse control disorder or a deficit in activities of daily living skills;~~

~~-(v) severe conduct disorder in conjunction with an impulse control disorder or a deficit in activities of daily living skills;~~

~~(vi) severe personality disorder in conjunction with an impulse control disorder or a deficit in activities of daily living skills; or~~

~~(vii) any combination of the above;~~

~~(2) intelligence quotient equal to or greater than 51;~~

~~(3) attainment of at least the 5th birthday but not the 21st birthday; and~~

~~(4) presentation of no likelihood of serious harm to others as defined in section 584.4(a)(8) of this Part.]~~

(c) Any additional admission criteria must relate to factors of psychopathology, activities of daily living skills, age, gender, sex and intelligence quotient. ~~[observable characteristics of the child. Such criteria may include age and gender.]~~ Admission criteria must comply with any standards and procedures established by the office, and cannot discriminate based on race, color, creed, disability, sex, gender identity, marital status, age, national origin, sexual orientation, military status, domestic violence victim status, disability, pregnancy-related condition, predisposing genetic characteristics, prior arrest or conviction record or familial status.

(d) The continued stay criteria must, at a minimum, provide that the child or youth meets eligibility criteria established in Part 583 of the Title, and does not meet the residential treatment facility's discharge criteria.

(e) The discharge criteria must at a minimum provide that the child or youth has been evaluated and determined to no longer meet eligibility criteria pursuant to Part 583 of the Title. ~~[relate to the necessity and appropriateness of the individual child's continued stay in a residential treatment facility. ]~~ Age in and of itself is not an appropriate basis for discharge from a residential treatment facility, except that no child or youth ~~[resident]~~ may remain in a residential treatment facility after attaining the age of 22.

#### **584.8 Admission, transfer, continued stay, and discharge policies and procedures**

(a) A residential treatment facility may only admit a child or youth~~[ren]~~ that has an authorization for access to residential treatment facility services, which was obtained ~~[who have been certified to the residential treatment facility by a preadmission certification committee established]~~ pursuant to Part 583 of this Title. ~~[Chapter.]~~ This requirement applies to admissions and transfers.

(b) A residential treatment facility may only make admission determinations ~~[admit children who meet]~~ based on the written admission criteria maintained pursuant to section 584.7 of this Part. A residential treatment facility may request to waive one or more admission criteria for a particular child or youth by applying to the Office of Mental Health or commissioner's designee for an extension or exemption with cause. The office or commissioner's designee shall be authorized to halt admissions for a residential treatment facility for failure to comply with this section.

~~[and for whom the residential treatment facility finds:~~

~~(1) proper treatment of the child's psychiatric condition requires care and treatment under the direction of a physician within a residential treatment facility; and~~

~~(2) care and treatment in a residential treatment facility can reasonably be expected to improve the child's condition or prevent further regression so that services will no longer be needed, provided that a poor prognosis shall not in itself constitute grounds for a denial of determination of eligibility if treatment can be expected to effect a change in prognosis.]~~

(c) In accordance with Mental Hygiene Law section 9.51, a residential treatment facility shall admit any appropriate child or youth with an authorization for access to residential treatment facility services to the next available bed if they meet the criteria for admission to the residential treatment facility, and have been designated as priority for admission by the Office of Mental Health or commissioner's designee. A residential treatment facility may request to waive this standard for a particular child or youth by applying to the Office of Mental Health or commissioner's designee for an extension or exemption with cause. If the residential treatment facility does not meet the standard, nor was it waived, the Office of Mental Health or commissioner's designee may halt admissions at its discretion.

~~[(e)](d) Upon application for admission or transfer of a child or youth, a [A] residential treatment facility shall provide written notice [to the Office of Mental Health preadmission certification committee and families or legal guardian] as follows:~~

~~[(1) Upon referral of child as a priority for admission or transfer, notice shall be provided within 30 calendar days. The notice shall indicate the anticipated date of admission or transfer or, if the child is determined to be not appropriate for admission, the specific reason for such determination.]~~

(1) All notices shall be made to the referral source, parent/legal guardian, Office of Mental Health or commissioner's designee, and the Local Governmental Unit of the child or youth's county of residence.

(2) The residential treatment facility shall give notice of receipt of an application for admission or transfer.

(3) The residential treatment facility shall evaluate and communicate the determination of the application for admission or transfer within a timeframe determined by the Office of Mental Health or commissioner's designee but no longer than 30 calendar days. A residential treatment facility may request to waive this standard for a particular child or youth by applying to the Office of Mental Health or commissioner's designee for a seven-day extension.

(i) The residential treatment facility shall give notice when a child or youth is determined to meet criteria for admission or transfer. This notice shall include the anticipated date of admission or transfer and any other information specified by Office of Mental Health or commissioner's designee.

(ii) The residential treatment facility shall give notice when a child or youth is determined to not meet admission criteria. This notice shall include the specific reason for such determination

based on residential treatment facility's admission criteria maintained pursuant to section 584.7 of this Part.

~~[(2)](6)~~ When a resident is ready for discharge or transfer, notice shall be provided [, if possible,] 30 calendar days in advance of the anticipated date of discharge or transfer.

~~[(3)] (7)~~ When a resident attains the age of 21, notice shall be provided within 30 calendar days with the discharge plan that will achieve the child or youth's discharge from residential treatment facility services prior to the 22<sup>nd</sup> birthday.

~~[(d)] (e)~~ Admissions, transfers and discharges shall be in accordance with the applicable requirements of articles 9 and 29 of the Mental Hygiene Law and Parts 15, 17 and 36 of this Title.

~~[(e)] (f)~~ Written admission, transfer, continued stay and discharge policies and procedures shall be maintained as required in section 584.7 of this Part and shall be subject to approval by the Office of Mental Health. Such policies and procedures shall:

(1) specify that admission, transfer, continued stay and discharge shall be based on the written criteria established pursuant to section 584.7 of this Part;

(2) delineate special requirements for admission, transfer, continued stay and discharge of [C]children or youth in the custody of a social services official, the Office of Children and Family Services [~~Director of the Division for Youth~~], or another person granted custody by the Family Court;

(3) prohibit discrimination solely on the basis of race, color, creed, [~~handicap,~~] national origin, sex or age gender identity, sexual orientation, military status, domestic violence victim status, disability, pregnancy-related condition, predisposing genetic characteristics, prior arrest or conviction record or familial status.

(4) provide for notification of the mental health information service of each admission in accordance with the requirements of Part 15 of this Title;

(5) require that the eligibility[~~necessity and appropriateness~~] of each resident's continued stay in the residential treatment facility be regularly evaluated in accordance to standards and procedures established by the Office of Mental Health or commissioner's designee;

(6) be available to the staff, residents and their families, cooperating agencies and the general public; ~~and~~

(7) require that discharge planning for each resident begin upon application for admission or transfer.

Discharge planning shall be in accordance with section 29.15 of the Mental Hygiene Law and standards and procedures established by the Office of Mental Health or commissioner's designee; and shall include, at a minimum, identification of the discharge goals and the criteria for determining [~~the necessity and appropriateness of~~] the specific resident's discharge readiness [~~continued stay~~].

#### **584.9 Written plan for services and staff composition.**

(a) Each residential treatment facility shall develop and specify in a written plan for services and staff composition its goals and objectives and the manner in which it intends to achieve them. The written plan for services and staff composition shall be subject to approval by the Office of Mental Health.

(b) The written plan for services and staff composition shall address:

- (1) the comprehensive treatment needs of the residents;
- (2) the physical health needs of the residents;
- (3) the vocational and educational needs of the residents; and
- (4) the residential needs, including dietary, on a 24-hour basis.

(c) The written plan for services and staff composition shall encompass the following written plans and rationales required under this Part:

- (1) services required to be available through the residential treatment facility;
- (2) treatment program and environment addressing the day-to-day activities of the residents; and
- (3) staffing required to provide services and day-to-day management and monitoring of the treatment program and environment.

(d) The written plan for services and staff composition shall address the manner in which the treatment team will integrate the services available through the residential treatment facility and the treatment program and environment into an individual treatment plan designed to meet the needs of each individual resident, and will involve the family or legal guardian.

#### **584.10 Staffing.**

(a) A residential treatment facility shall continuously employ an adequate number of staff and an appropriate mix of staff to carry out its goals and objectives as well as to ensure the continuous provision of sufficient regular and emergency supervision of all residents 24 hours a day. As a component of the written plan for services and staff composition, the residential treatment facility shall submit a staffing plan which includes the qualifications and duties of each staff position, by title. The residential treatment facility shall submit a written staffing rationale which justifies the staff to be utilized, the mix of staff and the plan for appropriate supervision of staff. The staffing plan shall include procedures for periodic supervisory conferences with staff and procedures for written performance evaluation consistent with any collective bargaining requirements. This staffing plan shall be based on the population to be served and the services to be provided. The staffing plan and its rationale shall be submitted for approval by the Office of Mental Health.

(b) All clinical staff shall have at least a high school diploma or its equivalent.

(c) At least 50 percent of the clinical staff hours shall be provided by full-time employees.

(d) For purposes of this Part, professional staff are individuals who are qualified by training and experience to provide direct treatment services under minimal supervision.

(1) Professional staff shall include the following as defined in section 584.4(c) of this Part:

- (i) nurse;
- (ii) occupational therapist;
- (iii) physician;
- (iv) psychiatrist;
- (v) psychologist;
- (vi) rehabilitation counselor;
- (vii) social worker;
- (viii) teacher;
- (ix) therapeutic recreation specialist; and
- (x) speech pathologist.

(2) Other professional disciplines may be included as professional staff, provided that the discipline is acceptable to the Office of Mental Health and is approved as part of the staffing plan by the Office of Mental Health. The discipline shall be from a field related to the treatment of mental illness. The individual shall be licensed in such discipline by the New York State Education Department, or have a master's degree in such discipline from a program approved by the New York State Education Department, and shall have specialized training or experience in treating persons with mental illness.

(e) In order to assure that the residential treatment facility employ an adequate number and mix of professional staff who meet the qualifications provided in section 584.4(c) of this Part, the staffing plan shall meet each of the following requirements. A single staff member may be counted against more than one requirement.

(1) At least two persons representing different professional staff categories as delineated in subdivision (f) of this section shall be employed on a full-time basis.

(2) Persons representing each of the following professional staff categories shall be employed at least one fifth of the hours of a full-time employee: nurse, psychiatrist, psychologist, social worker, and recreation therapist.

(3) One full-time equivalent professional staff member shall be employed for each seven residents.

(f) In order to assure that an adequate number of professional staff are qualified by training and experience to provide clinical supervision of other staff and to provide programmatic direction, at least 25 percent of the professional staff required to comply with paragraph (e)(3) of this section in each residential treatment facility shall meet the following qualifications:

(1) a nurse who has a bachelor's degree and at least three years post-licensure experience in treating mentally ill children or youth;

(2) a physician who has at least one year of post-medical degree experience in treating mentally ill children or youth;

(3) a psychiatrist who has at least one year of post-medical degree experience in treating mentally ill children or youth;

(4) a psychologist who has specialized training in school psychology, clinical psychology or counseling psychology and at least two years of post-~~[licensure]~~-graduate experience in treating mentally ill children or youth;

(5) a rehabilitation counselor who has a master's degree in rehabilitation counseling from a program approved by the New York State Education Department, current certification by the Commission on Rehabilitation Counselor Certification and two ~~[three]~~ years of post-~~[certification]~~ graduate experience in treating mentally ill children or youth;

(6) a social worker who has specialized training in clinical practice and two years post-graduate experience in treating mentally ill children or youth; and/or

(7) a therapeutic recreation specialist who has a master's degree in therapeutic recreation from a program approved by the New York State Education Department, current registration as a therapeutic recreation specialist by the National Therapeutic Recreation Society and two ~~[three]~~ years of post-~~[registration]~~ graduate experience in treating mentally ill children or youth.

(g) In order to assure that the residents are adequately supervised and are cared for in a safe and therapeutic manner, the staffing plan shall meet each of the following requirements:

(1) At least two clinical staff members shall be assigned to direct care responsibilities for each living unit during all hours the residents are awake and not in school.

(2) At least one clinical staff member shall be assigned to direct care responsibilities for each living unit for each five residents during all hours the residents are awake and not in school.

(3) At least one clinical staff member shall be assigned direct care responsibility, be awake, and be continuously available to the children or youth on each living unit during all hours the residents are asleep. A minimum of one additional clinical staff member for each 14 children or youth shall be immediately available onsite to assist with emergencies or problems which might arise.

(4) Appropriate professional staff shall be available to assist in emergencies on at least an on-call basis at all times.

(5) A physician shall be available on at least an on-call basis at all times.

(h) In order to assure the appropriate supervision of the nutritional aspects of dietetic services, a qualified dietitian shall be available on at least a consultation basis.

(1) The amount of time a qualified dietitian is available shall be sufficient to permit the dietitian to direct nutritional aspects of patient care, assure that dietetic instructions are carried out and assist in the evaluation of the dietetic service.



(2) When a qualified dietitian is only available on a consultation basis, regular written reports shall be submitted to the director regarding the implementation and evaluation of dietetic services.

(i) All staff shall have qualifications appropriate to assigned responsibilities as set forth in the staffing plan and shall practice within the scope of their professional discipline.

(1) All staff shall submit documentation of their training and experience to the provider of services. Such documentation shall be retained on file by the residential treatment facility.

(2) ~~Clinical~~ [p] Psychological testing and evaluation procedures may only be provided by or under the supervision of a licensed psychologist.

(j) Students or trainees may qualify as clinical staff under the following conditions:

(1) The students and trainees are actively participating in a program leading to attainment of a recognized degree or certificate in a field related to mental health at an institution chartered or approved by the New York State Education Department. Limited permit physicians are considered students or trainees.

(2) The students or trainees are supervised and trained by professional staff meeting the qualifications specified in subdivision (f) of this section and limited permit physicians are trained by physicians.

(3) The students or trainees receive at least one hour of supervision for every five hours of treatment services provided. Limited permit physicians must work under the direct supervision of physicians.

(4) The students or trainees use titles that clearly indicate their status.

(5) Written policies and procedures pertaining to the integration of students and trainees within the overall operation of the residential treatment facility receive prior approval by the Office of Mental Health.

#### **584.11 Service requirements.**

(a) The services available through residential treatment facility must address the treatment needs of the resident and must include mental health services, educational and vocational services, physical health services and dietetic services.

(b) As a component of the written plan for services and staff composition, the residential treatment facility shall provide a written plan and rationale for the services available which shall be subject to approval by the Office of Mental Health. The written plan shall indicate what services will be available and whether the residential treatment facility will provide the services directly or through a written agreement with the provider of services. The written plan shall indicate what services will be available for involvement by the families or legal guardians of the residents.

(c) The mental health services available through the residential treatment facility shall include, but are not limited to, the services listed below. These mental health services must be provided directly by the residential treatment facility:

(1) case coordination services;

- (2) verbal therapies;
- (3) medication therapy;
- (4) therapeutic recreation services;
- (5) task and skill training.

(d) The physical health services available through the residential treatment facility shall include, but are not limited to, the services listed below. Physical health services may be provided directly by the residential treatment facility or may be provided by written agreement as provided for in subdivision (e) of this section.

(1) a physical examination upon admission, periodic assessment of physical condition, and treatment as needed;

- (2) a dental examination within six months of admission, periodic assessment, and treatment as needed;
- (3) an assessment of immunization upon admission, and an ongoing immunization program;
- (4) health education and sex education; and
- (5) emergency care on a 24-hour basis.

(e) When physical health services are not provided directly by the residential treatment facility, there shall be a written agreement between the provider of services and the residential treatment facility. When physical health services are provided by the same provider of services, written policies and procedures will be an acceptable alternative to a written agreement. The written agreement or written policies and procedures shall, at a minimum, address:

- (1) referral of residents;
- (2) qualifications of staff providing services;
- (3) exchange of clinical information; and
- (4) financial arrangements.

(f) Educational and vocational services available through the residential treatment facility shall include, but are not limited to, the minimum requirements of the State Education Law regarding regular education, vocational education and special education, as appropriate to meet the needs of the residents. Education services may be provided directly by the residential treatment facility or may be provided by written agreement as provided for in subdivision (g) of this section. In any case, education services approved by the Education Department must be available either on the same site or in close physical proximity to the residential treatment facility.

(g) When the education services are not provided directly by the residential treatment facility, there shall be a written agreement between the provider of services and the residential treatment facility. The provider of education services shall be a State Education Department-approved program. When education services are provided by the same provider of services, written policies and procedures will be an acceptable alternative to a written agreement. The written agreement or written policies and procedures shall, at a minimum, address:

- (1) qualifications of staff providing services;

- (2) participation of educational and vocational staff in the treatment planning process;
- (3) access by staff of the residential treatment facility to educational and vocational programs and records; and
- (4) financial arrangements.

(h) The dietetic services available through the residential treatment facility shall include, but are not limited to, the services listed below. Dietetic services may be provided directly by the residential treatment facility or may be provided by written agreement as provided for in subdivision (i) of this section.

- (1) safe and sanitary storage and serving of foods;
- (2) planned menus that provide for a nutritionally adequate diet for all residents; and
- (3) provisions to meet special dietary needs.

(i) When dietetic services are not provided directly by the residential treatment facility, there shall be a written agreement between the provider of services and the residential treatment facility. When dietetic services are provided by the same provider of services, written policies and procedures will be an acceptable alternative to a written agreement. The written agreement or written policies and procedures shall, at a minimum, address:

- (1) qualifications of staff providing services;
- (2) planned menus that provide for a nutritionally adequate diet served in an appetizing manner to all residents;
- (3) provisions to meet special dietary needs; and
- (4) financial arrangements.

(j) The residential treatment facility must have a written agreement for the provision of emergency psychiatric services with a provider of inpatient psychiatric services operated or certified by the Office of Mental Health.

#### **584.12 Treatment program and environment.**

(a) The treatment program and environment shall be designed to provide appropriate care on a 24-hour basis and to enhance treatment for all residents. The treatment program and environment shall ensure:

- (1) a planned and predictable day-to-day routine for all residents
- (2) the provision of a balance of privileges, expectations and responsibilities as appropriate to the ages and levels of functioning of the residents; and
- (3) the safety, comfort and well-being of all residents

(b) As a component of the written plan for services and staff composition, the residential treatment facility shall provide a written plan and rationale for the treatment program and environment which shall be subject to approval by the Office of Mental Health, and addresses, at a minimum, the following:

- (1) the manner in which the treatment program and environment will be implemented. Implementation must be consistent for all residents, yet must be sufficiently flexible to accommodate the needs of individual residents;
- (2) the manner in which the treatment program and environment will be explained to the residents and their families or legal guardians upon admission;
- (3) the day-to-day routines that the residents and staff will follow;
- (4) the behavioral expectations for all residents, including identification of behaviors that are acceptable and unacceptable. This must address time both in the residential treatment facility and away from it;
- (5) the means for providing instruction to residents, consistent with their age, needs and clinical condition as well as the needs and circumstances within the facility or program, in techniques and procedures which will enable such residents to protect themselves from abuse and maltreatment;
- (6) the house rules and the response the resident can expect if [~~he/she~~] they either comply[ies] or fail[s] to comply with them. This can include staff response, limitations on privileges or other actions specified by the residential treatment facility;
- (7) the mechanism for enabling residents, where appropriate, to participate in the decision making process within the residential treatment facility relating to the treatment program and environment;
- (8) the means of observing holidays and personal milestones in keeping with the cultural and religious background of the residents;
- (9) the procedure for communications and/or visitations with family, legal guardians, friends, and significant others; and
- (10) the means of providing restitution or reimbursement for damages to property of the resident, other residents, and the residential treatment facility.

#### **584.13 Special treatment procedures.**

- (a) There shall be a written plan for the use of restraint and seclusion, as defined in section 584.4 of this Part, that is in accordance with section 526.4 of this Title.
- (b) There shall be a written plan for the use of time-out, as defined in section 584.4 of this Part. This plan shall, at a minimum, specify the criteria and procedures for the use of time-out, the rooms to be used, the procedures for monitoring that shall provide for visual observation of the child or youth at intervals of no more than 15 minutes, and the requirements for documentation in the case record. Time-out shall be limited to 30 minutes at one time, 45 minutes in any hour and two hours in any 24-hour period.
- (c) No residential treatment facility shall use extraordinary risk procedures without prior approval by the Office of Mental Health of a written plan for the use of such procedures. The plan shall demonstrate compliance with all applicable Federal and State requirements. Extraordinary risk procedures include, but are not limited to, experimental treatment modalities, psychosurgery, aversive conditioning and electro-convulsive therapies.

#### **584.14 Treatment team.**

(a) Treatment shall be the responsibility of an interdisciplinary treatment team. A treatment team shall be responsible for developing and implementing a treatment plan for each resident as required by section 584.15 of this Part.

(b) In order to address all aspects of the resident's needs, a treatment team shall be established for each resident and shall be comprised of the resident, clinical staff who are involved in the treatment of the individual resident on a regular basis, and where appropriate, of the family or legal guardian.

(1) The treatment team shall include all staff having significant participation in the treatment of the resident. The team shall, at a minimum, include a psychiatrist, at least one member of the clinical staff who is assigned to the living unit on a daily basis, and at least one member of the professional staff responsible for providing each of the following services to the resident:

- (i) verbal therapies;
- (ii) therapeutic recreation services; and
- (iii) education and vocational services.

(2) One member of the treatment team must be designated as case coordinator for the resident.

(c) The residential treatment facility must develop written policies and procedures for the operation of its treatment teams which shall be subject to approval by the Office of Mental Health. At a minimum, the policies and procedures must address the following:

- (1) the composition of treatment teams;
- (2) the criteria for changing treatment team members;
- (3) the representation required for the development of initial and comprehensive treatment plans and for treatment plan reviews;
- (4) the responsibilities of the case coordinator;
- (5) the manner in which the treatment team will coordinate with the appropriate committee on special education [~~the handicapped~~]; and
- (6) the manner in which the treatment team will involve the family or legal guardian in the treatment process.

#### **584.15 Individual treatment plans.**

(a) An individual treatment plan shall be developed and implemented for each resident by the resident's treatment team.

(b) The individual treatment plan shall be based on a complete assessment of each resident.

- (1) The assessment shall include, but shall not necessarily be limited to, physical, emotional, behavioral, social, educational, recreational and, when appropriate, vocational and nutritional needs. Special consideration shall be given to the role of the resident's family in each area of assessment.
- (2) Clinical consideration of each resident's needs shall include a determination of the type and extent of special clinical examinations, tests and evaluations necessary for a complete assessment.
- (3) The complete assessment shall be updated and documented at least annually as required in section 584.16 of this Part.
- (c) The individual treatment plan shall address the needs of the resident.
  - (1) The individual treatment plan shall identify all service needs of the resident, whether or not the services are provided directly by the residential treatment facility.
  - (2) The individual treatment plan shall address the manner in which the family or legal guardian will be involved in the treatment process.
  - (3) The individual treatment plan shall address the manner in which the resident and his/her family or legal guardian will participate in the overall treatment program and environment of the residential treatment facility as provided for in section 584.12 of this Part.
  - (4) For those children or youth that have been determined to be classified with an educational disability[educationally handicapped] and in need of special educational services and programs, the individual treatment plan shall address the special educational needs identified in the individualized education program. However, the individualized education program shall be maintained as a separate and distinct record.
- (d) The resident and, as appropriate, the resident's family shall participate in the development and implementation of the individual treatment plan.
- (e) The individual treatment plan shall be developed and revised as follows:
  - (1) an initial treatment plan which complies with the requirements of section 584.16(e) of this Part shall be developed within 72 hours of the resident's admission or transfer;
  - (2) a comprehensive treatment plan which complies with the requirements of section 584.16(f) of this Part shall be developed within 14 days of the resident's admission or transfer; and
  - (3) the comprehensive treatment plan shall be reviewed and revised if necessary at least every 30 days.

**584.16 Case record.**

- (a) There shall be a complete case record maintained at one location for each resident admitted to the residential treatment facility. For those children or youth that have been determined to be classified with an educational disability [educationally handicapped] and in need of special educational services and programs, there may also be an individualized education program, but such individualized education program shall be separate and distinct from the case record.

(b) The case record shall be confidential and access shall be governed by the requirements of section 33.13 of the Mental Hygiene Law and 45 C.F.R. Parts 160 and 164 as incorporated by reference in Part 800 of this Title.

(c) The case record shall be available to all clinical staff involved in the care and treatment of the resident, consistent with the provisions of 45 C.F.R. Parts 160 and 164.

(d) Each case record shall include:

(1) identifying information about the resident served and the resident's family;

(2) a note upon admission, indicating source of referral, date of admission, rationale for admission, the date service commenced, presenting problem and immediate treatment needs of the resident;

(3) the application for admission to a residential treatment facility and ~~[or]~~ any other information obtained from the Office of Mental Health or commissioner's designee's evaluation of eligibility for access to residential treatment facility services ~~[the pre-admission certification committee]~~, including an assessment from the committee on special education ~~[the handicapped]~~, when available;

(4) assessments of psychiatric, medical, educational, emotional, social and recreational needs. Where appropriate, assessments of vocational and nutritional needs shall be included. Special consideration shall be given to the role of the resident's family in each area of assessment;

(5) reports of all mental and physical diagnostic examinations and assessments, including findings and conclusions;

(6) reports of all special studies performed, including, but not limited to, X-rays, clinical laboratory tests, psychological tests, or electroencephalograms;

(7) initial and comprehensive treatment plans;

(8) Progress notes which relate to the goals and objectives of the initial or comprehensive treatment plans, which shall be signed by the staff member who provided the service or by one participating staff member when several staff members have had significant interaction with the resident.

(i) Progress notes shall be written at least weekly and additionally whenever a significant event occurs that affects, or potentially affects, the resident's condition or course of treatment.

(ii) Progress notes shall be written regarding the educational program as determined in the resident's individualized education program.

(iii) Progress notes shall be written regarding involvement-of the family or legal guardian in treatment as determined in the resident's treatment plan;

(9) summaries of treatment plan reviews and special consultations regarding all aspects of the resident's complete daily program;

(10) dated and signed orders which indicate commencement and termination dates for all medications;

(11) a discharge summary, prepared within 15 days of discharge or transfer, which includes a summary of the clinical treatment, or reasons for discharge or transfer and, if appropriate, the provision for alternative treatment services which the resident may require; and

(12) information as may be required for the effective implementation of the utilization review plan provided for in section 584.18 of this Part.

(e) initial treatment plan shall include:

(1) admission diagnosis or diagnostic impression;

(2) a brief description of the resident's and the resident's family problems, strengths, conditions, disabilities or needs;

(3) objectives relating to the resident's problems, conditions, disabilities and needs, and the treatments, therapies and staff actions which will be implemented to accomplish these objectives; and

(4) initial discharge goals and criteria for determining the ~~[necessity and appropriateness of the]~~ specific resident's discharge readiness [continued stay], the anticipated discharge date and any other requirements established in standards and procedures established by the Office of Mental Health or commissioner's designee.

(f) The comprehensive treatment plan shall include:

(1) diagnosis;

(2) a brief description of the resident's and the resident's family problems, strengths, conditions, disabilities, functional deficits or needs;

(3) a brief description of the treatment and treatment planning which demonstrates that the program is addressing the functional deficits of the resident which substantiated the resident's eligibility for admission to the residential treatment facility;

(4) goals to address the resident's problems, conditions, disabilities and needs which indicate the expected duration of the resident's need for services in the residential treatment facility;

(5) objectives relating to the resident's goals. Objectives must be written to reflect the expected progress of the resident. Projections for accomplishing these objectives should be specific;

(6) the specific treatments, therapies and staff actions which will be implemented to accomplish each of the objectives and goals. These must be stated clearly to enable all staff members participating in the treatment program to implement the goals and objectives;

(7) discharge goals and the criteria for determining ~~[the medical necessity and appropriateness of]~~ the specific resident's discharge readiness [continued stay], the anticipated discharge date and any other requirements established in standards and procedures established by the Office of Mental Health or commissioner's designee;



(8) the name of the clinical staff member, designated as case coordinator, exercising primary responsibility for the resident;

(9) identification of the staff members who will provide the specified services, experiences and therapies;

(10) documentation of participation by the patient in the development of the treatment plan whenever possible and by representatives of the resident's school district, parent or legal guardian and referring agent, where appropriate;

(11) date for the next scheduled review of the treatment plan; and

(12) a copy of the individualized education program as defined in accordance with requirements of the Commissioner of Education.

**584.17 Quality assurance.**

(a) Each residential treatment facility shall have an organized quality assurance program designed to enhance resident care through the ongoing objective assessment of important aspects of resident care and the correction of identified problems. The quality assurance program shall provide for the following:

(1) identification of problems or concerns related to the care of residents;

(2) objective assessment of the cause and scope of the problems or concerns, including the determination of priorities for both investigating and resolving problems. Priorities shall be related to the degree of adverse impact on the care provided to residents that can be expected if the problems remain unresolved;

(3) implementation of decisions or actions that are designed to eliminate, insofar as possible, identified problems; and

(4) monitoring to assess whether or not the desired result has been achieved and sustained.

(b) Each residential treatment facility shall prepare a written quality assurance plan designed to ensure that there is an ongoing quality assurance program that includes effective mechanisms for reviewing and evaluating resident care and provides for appropriate response to findings. This quality assurance plan shall be subject to approval by the Office of Mental Health. The written quality assurance plan shall address at a minimum:

(1) the individual or group with the overall responsibility to administer or coordinate the quality assurance program;

(2) the activities or mechanisms for reviewing and evaluating resident care;

(3) the individuals or organizational entities to whom responsibility will be delegated for specific activities or mechanisms;

(4) the activities or mechanisms for assuring the accountability of the clinical staff for the care they provide;

(5) the individuals or organizational entities to whom responsibility will be delegated for responding to findings or implementing corrective actions designed to eliminate insofar as possible identified problems; and

(6) the activities or mechanisms for monitoring whether or not the corrective actions have been implemented, and whether or not the desired result has been achieved and sustained.

(c) As a component of the quality assurance program, each residential treatment facility shall establish a written plan for reviewing untoward incidents in accordance with Part 524 of this Title.

**584.18 Utilization review.**

(a) Each residential treatment facility shall have an organized utilization review program designed to monitor the appropriateness of continued stay and to identify the overutilization or underutilization of services.

(b) Each residential treatment facility shall prepare a written utilization review plan designed to ensure that there will be an ongoing utilization review program. This utilization review plan shall be subject to approval by the Office of Mental Health. The written utilization review plan shall address at a minimum:

(1) the establishment of a utilization review committee that shall be composed of at least three members of the clinical staff who meet the qualifications provided in section 584.10(d) of this Part, at least two of whom shall be [physicans] physicians. The utilization review committee shall include at least one physician who is knowledgeable in the diagnosis and treatment of mental illness;

(2) the operating procedures of the utilization review committee, including convening meetings as often as necessary to execute its functions, but in no event less often than quarterly; maintaining written minutes of meetings; and submitting reports to the director. Utilization review committee members who are directly involved in the care of a resident whose care is being reviewed shall be excluded from the committee's deliberations;

~~[(3) the review of continued stays in accordance with section 584.18(c) of this Part; and]~~ (3) the integration of the utilization review program into the quality assurance program provided for in section 584.17 of this Part.

(c) The utilization review committee shall review each resident's continued stay in accordance with the following requirements:

(1) An initial continued stay review shall be completed by the utilization review committee or ~~[the]~~ commissioner's designee no later than 30 days after admission.

(2) Subsequent continued stay reviews shall be completed by the utilization review committee or [its] commissioner's designee 90 days after the initial continued stay review and every 90 days thereafter.

(3) Review of each alternate care determination by the utilization review committee or a subcommittee of the utilization review committee which includes at least one physician.

(4) Notification of the physician on the resident's interdisciplinary treatment team of an alternative determination. Additional information provided by such physician shall be considered by the utilization review committee that includes at least two physicians.

(5) Notification of the director of final adverse decisions.

**584.19 Premises.**

The following standards shall apply to the physical plant or physical facilities of a residential treatment facility:

**(a) Construction standards.**

(1) Facilities shall be and remain in compliance with applicable sections of the 2010 edition of the Guidelines for Design and Construction of Health Care Facilities published by the Facility Guidelines Institute with assistance from the United States Department of Health and Human Services, provided, however, that this provision shall apply only to facilities which undertake construction or major renovations on or after the effective date of this paragraph. Facilities which have been constructed or have completed major renovations prior to that date in accordance with Part 77 of this Title shall be deemed to be in compliance with this paragraph.

(2) The design of the facility shall meet the requirements of the applicable sections of the Americans with Disabilities Act and the ADA Standards for Accessible Design and implementing regulations found at 28 CFR Parts 35 and 36.

(3) Waivers of up to 10 percent of the square footage for bedroom space will be considered by the Office of Mental Health upon application from the agency.

**(b) Fire safety.**

(1) All buildings containing sleeping quarters for children or youth shall be protected by a fire detection system or a sprinkler system installed throughout. All buildings used by children or youth, but not containing sleeping quarters for them shall be protected throughout by a sprinkler system, fire detection system, or manually operated fire alarm system. All areas of high fire hazard in all buildings used by children or youth, whether or not they contain sleeping quarters for them, shall be protected by a sprinkler system and be separated from other areas by substantial, fire-resistant construction.

(2) All fire protection systems and equipment shall be installed according to recommendations of the National Fire Protection Association, and shall be inspected at least quarterly by a person who is expert in the installation, operation and inspection of such systems and equipment. A record of these inspections shall be kept by the facility. Facilities shall immediately correct any deficiency noted during inspection and testing.

(3) Each residential treatment facility shall request an annual inspection of each building used by children or youth and its fire protection equipment by local fire authorities and/or the residential treatment facility's fire and casualty insurance carrier, who shall be requested to give the facility a written report of their findings. This report shall be kept on file on the premises until replaced by the next annual report of inspection. The residential treatment facility shall be responsible for correcting any fire hazards called to its attention throughout such inspection, and for keeping a written record on file of the action taken and when.

(4) Fire safety training. Facilities shall provide fire safety training to all staff. Newly hired staff shall be trained upon hiring and existing staff trained at least annually. Fire safety training shall include, but not be limited to:

- (i) fire prevention;
- (ii) discovering a fire;
- (iii) operating the fire alarm system;
- (iv) use of firefighting equipment; and
- (v) building evacuation including fire drill protocols which identify staff roles.

(5) Fire drills. On a quarterly basis, facilities shall conduct fire drills in each building that houses patients. At least 50 percent of such drills must be unannounced.

- (i) For each quarter, each such building must have a minimum of one practice fire drill per shift.
- (ii) Facilities must direct all staff members on all shifts to participate in fire drills.
- (iii) Drills shall be scheduled at varying times during a shift.
- (iv) Use of alternative exits shall be practiced during fire drills.
- (v) Whenever practicable, drills shall involve the actual evacuation of patients to an assembly point as specified in the evacuation plan. Consistent with the Life Safety Code standards, in larger facilities that are subdivided into separate smoke compartments to limit the spread of fire and smoke and move patients without leaving the building or changing floors, evacuation may include the relocation of patients to such compartments.
- (vi) Properly documented actual or false alarms may be used for up to 50 percent of required drills for each shift, if all elements of the facility's fire plan were implemented.
- (vii) Facilities must document and maintain records regarding fire drill performance which include an evaluation of the results of each fire drill, any corrective action that may be required, and completion of steps taken to achieve such corrective action.

**(c) Prohibited items.**

(1) The following items are prohibited from use within the structure:

- (i) devices for heating, cooking, or lighting which use kerosene, gasoline, wood, or alcohol;
- (ii) portable electric hot plates; and
- (iii) barbeque grills. The use of barbeque grills is permissible when used outside of buildings but not within 30 feet of any structure including overhangs, canopies or awnings.

(2) The use of portable space heating devices is prohibited in patient sleeping and treatment areas of the facility, as well as in the facility administration offices. Use of a portable space heating device in any other building on the grounds of a facility shall be in accordance with guidelines of the office, provided that:

- (i) the unit has an Underwriters Laboratories (UL) certification mark;
- (ii) the unit is thermostat-controlled and has a tip-over cutoff device;
- (iii) the unit is plugged directly into a wall receptacle (no extension cords);

- (iv) combustible materials are not stored around or near the unit;
  - (v) at least a three-foot clearance around the unit is maintained; and
  - (vi) the unit is not placed underneath a desk, furniture or other combustible items.
- (d) *Smoking.* Facilities must not permit smoking within any buildings on the grounds of the facility. If smoking is permitted on the grounds of the facility, it shall be contained to a specific location(s) equipped with an approved non-combustible ash receptacle. Smoking shall not be permitted within 30 feet of any building structure, including overhangs, canopies or awnings.
- (e) *Medication storage.* If medications are stored on the premises of the residential treatment facility, the residential treatment facility shall provide for controlled access maintenance of supplies in accordance with all applicable Federal and State laws and regulations.
- (1) There shall be a single medication storage area within a single unit of the residential treatment facility.
  - (2) Medication shall be stored in a sturdy metal or sturdy wooden cabinet without glazing which shall be locked except when medication is needed. Controlled substances shall be stored in double-locked cabinets as follows:
    - (i) Schedule I, II, III and IV controlled substances shall be kept in stationary, double-locked cabinets. Both inner and outer cabinets shall have key-locked doors with separate keys. Spring locks or combination dial locks are not acceptable.
    - (ii) Schedule V controlled substances shall be stored in a stationary, secure, locked cabinet of substantial construction.
  - (3) Refrigerators used for storage of medication shall not be used for the storage of food or beverages unless the medication is stored in separate locked compartment within the refrigerator.
- (f) Each living unit shall provide for the comfort and privacy of the residents and shall be limited in size to 14 residents. The premises shall be reasonably maintained to ensure access to services by all residents.

#### **584.20 Statistical records and reports.**

- (a) Such statistical information shall be prepared and maintained as may be necessary for the effective operation of the facility and as may be required by the Office of Mental Health.
- (b) Statistical information shall be reported to Office of Mental Health in a manner and within time limits specified by the Office of Mental Health.
- (c) Statistical reporting shall be the responsibility of an individual whose name and title shall be made known to the Office of Mental Health.
- (d) Summaries of statistical information shall be reviewed at least annually as part of the annual evaluation process.
- (e) A residential treatment facility shall report to the Office of Mental Health or commissioner's designee and the Advisory Board on Residential Treatment Facility Admissions, as requested by the office, the disposition of

applications for admission or transfer received by each residential treatment facility. Such report shall include, but not be limited to: the number of children or youth that applied for admission or transfer to the residential treatment facility, the number of children or youth deemed not appropriate for admission and the reason(s) why, the number of children or youth admitted to each residential treatment facility, the number of children or youth transferred from a hospital operated by the office of mental health and subsequently transferred to another hospital, the average length of stay for residents at the residential treatment facility, the number of children or youth served at each residential treatment facility, the number of involuntary placements and/or transfers from Office of Mental Health operated inpatient facilities, and any other information requested. The Advisory Board authority is limited to evaluating information relating to admission criteria and admission decisions and services provided by each residential treatment facility.

#### **584.21 Waiver provisions.**

In order to be eligible for the waiver provisions of this section, a residential treatment facility must meet one of the three following requirements:

(a) The residential treatment facility is located in a rural area and can demonstrate to the satisfaction of the Office of Mental Health the need for a waiver. For purposes of this Part, a *rural area* shall be a county where the population density is less than one hundred persons per square mile based upon current available data.

The following sections of this Part are eligible for waiver:

(1) Section 584.5(d). The Office of Mental Health may approve a resident capacity of less than 14 where the residential treatment facility can demonstrate that this limitation would adversely affect the services provided. Consideration will be given to factors such as, but not limited to, geographic distance and transportation problems of residents' families and availability of staff.

(2) Section 584.10(e). The Office of Mental Health may approve the use of a physician in lieu of a psychiatrist where the residential treatment facility can demonstrate that a psychiatrist is unavailable to meet the requirement. The physician must have specialized training or experience in treating mentally ill children and youth.

(3) Section 584.10(e). The Office of Mental Health may approve the use of a person who has received a bachelor's degree in one of the following areas, art education, drama, early childhood education, music education, physical education, psychology, rehabilitation, sociology or special education in lieu of a therapeutic recreation specialist in circumstances where the residential treatment facility can demonstrate that a therapeutic recreation specialist is unavailable to meet the requirement. The person holding such a degree must also have specialized training or experience in treating mentally ill children and youth. This provision is extended to residential treatment facilities in other than rural areas.

(4) Section 584.11(f). Educational and vocational services may be provided at a location different than the residential treatment facility when the residential treatment facility can demonstrate that such arrangements would benefit the residents and that such services will be fully integrated through the treatment planning process.

(b) The residential treatment facility serves a specialized target population and can demonstrate to the satisfaction of the Office of Mental Health the needs for a waiver based upon the specialized needs of the target population. Section 584.5(d) of this Part is eligible for a waiver if the residential treatment facility can demonstrate that the need for such a program would not justify a program serving 14 or more residents.

(c) The residential treatment facility has a physical plant with living units designed for more than 14 residents and the residential treatment facility can demonstrate to the satisfaction of the Office of Mental Health the need for a waiver. Section 584.19(c) of this Part is eligible for a waiver if the residential treatment facility can demonstrate that such arrangements would be consistent with its goals and objectives and it would not be detrimental to the residents.