TITLE 8 SOCIAL SERVICES
CHAPTER 369 OVERSIGHT OF RESIDENTIAL SHELTER AND MENTAL HEALTH SERVICES AND FACILITIES FOR CHILDREN
PART 2 REGULATIONS GOVERNING RESIDENTIAL SHELTER CARE FACILITIES FOR CHILDREN

8.369.2.1 ISSUING AGENCY: New Mexico health care authority.
[8.369.2.1 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.2 SCOPE: All children's crisis shelters, multi service homes, and new or innovative programs that provide children's services as specified in these regulations.

A. These regulations apply to the following:

(1) Public or private, profit or nonprofit residential facilities providing services as outlined by these regulations.

(2) Any facility providing services as outlined by these regulations which by State or federal law or regulation must be licensed by New Mexico.

B. These regulations do not apply to the following:

(1) Offices and treatment room of licensed private practitioners.

(2) Agencies providing treatment foster care services which are licensed by the protective services division of the children, youth and families department.

(3) Room and board facilities in public or private schools accredited or supervised by the New Mexico state department of education and inspected for fire and safety by the New Mexico state fire marshal's office.

(4) Residential treatment services and day treatment services that provide children and adolescent mental health services, which are licensed by the New Mexico health care authority division of health improvement.
[8.369.2.2 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.3 STATUTORY AUTHORITY: The regulations set forth herein have been promulgated pursuant to the general authority granted under Subsection E of Section 9-8-6 NMSA 1978, and Subsection A of Section 24A-1-3 NMSA 1978, as amended.
[8.369.2.3 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.4 DURATION: Permanent.
[8.369.2.4 NMAC - N/E, 5/26/2026; N, xx/xx/2026.2.4 NMAC,

8.369.2.5 EFFECTIVE DATE: xx/xx/2026, unless a later date is cited at the end of a section.
[8.369.2.5 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.6 OBJECTIVE:

A. Establish minimum standards for licensing of residential facilities that provide services in order to promote the health, safety and welfare of children in need of such services.

B. Provide for monitoring of facility compliance with these regulations through surveys to identify any factors that could affect the health, safety, and welfare of the clients or the staff.

C. Assure that the agency/facility establishes and follows written policies and procedures which specify how this is met.

D. To assure that adequate supervision must be provided at all times. Failure to provide a child with the care, supervision and services outlined in these regulations is a violation of these regulations which could result in suspension, revocation or denial of license.
[8.369.2.6 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.7 DEFINITIONS: For the purpose of these regulations, the following apply:

A. Definitions beginning with "A":

(1) "Abuse" means any act or failure to act, performed intentionally, knowingly or negligently that causes or is likely to cause harm to a client including:

(a) physical contact that harms or is likely to harm a client of a facility;

(b) inappropriate use of a physical restraint, isolation, or medication that harms or is likely to harm a client;

(c) inappropriate use of restraint, medication, or isolation as punishment or in conflict with a physician's order;

(d) medically inappropriate conduct that causes or is likely to cause physical harm to a client;

(e) medically inappropriate conduct that causes or is likely to cause great psychological harm to a client;

(f) an unlawful act, a threat, or menacing conduct directed toward a client that results and might reasonably be expected to result in fear or emotional or mental distress to a client;

(g) abuse or neglect as defined in NMSA 32A-4-2 (1997), or as amended.

(2) "Active status" means a type of certification or license granted to a program currently serving clients.

(3) "Administrator" means the person in charge of the day-to-day operation of a facility or certified service; may be licensee or authorized representative. For certification the administrator may be the director or operator and is required to meet the required qualifications.

(4) "Admissions hold" means restricted admissions or provision of services. The licensing authority may restrict the health facility from providing designated services and from accepting any new clients until deficiencies are corrected. Voluntary admission holds are acceptable, the agency/facility notifies the HCA of the hold, reasons for and timeframes within 24 hours of the plan for voluntary admission hold.

(5) "Agency" means the legally responsible organizational entity administering the facility or program(s) of specific services identified and certified pursuant to these certification requirements.

(6) "Ambulatory" means the ability to walk without assistance.

(7) "Applicant" means the individual or organization applying for a license or certification.

(8) "Assistance with delivery of medication" means assistance with the method by which the individual(s) take or receive their medication based on clear and concise orders transcribed on the medication administration record.

B. Definitions beginning with "B":

(1) "Bed" means the total assembly on which a child sleeps, including frame, springs, mattress, mattress cover/pad, sheets, pillow, blankets and bedspread.

(2) "Behavioral health services" means a comprehensive array of professional and ancillary services for the treatment, habilitation, prevention and identification of mental illnesses, behavioral symptoms associated with developmental disabilities, substance abuse disorders and trauma spectrum disorders.

(3) "Behavioral management" means the use of basic techniques, such as reinforcement, redirection and voluntary time-outs to teach clients skills for managing and improving their own behavior; and the use of verbal de-escalation, therapeutic holds, personal restraint and seclusion in order to maintain a safe and therapeutic environment and to enhance the abilities of clients and care givers to manage client behavior.

C. Definitions beginning with "C":

(1) "Cancellation" means an HCA action nullifying a program's certification or licensure.

(2) "Capacity" means the maximum number of clients allowed to receive services or the total number of persons or beds for which the facility is licensed at any specified time, also applies to the maximum number of children who can be accommodated in rooms designated for them.

(3) "Case management services" means services provided in order to assist children and adolescents with identifying and meeting multiple and complex, special physical, cognitive and behavioral health care needs through planning, securing, monitoring, advocating and coordinating services.

(4) "Child/adolescent" means (for the purpose of these regulations) a person under the chronological age of 18 years. Those persons who, are clients receiving certified or licensed services pursuant to these regulations reach the age of 18 for the purposes of these regulations be considered a child until they complete their course of treatment in the facility.

(5) "Children's crisis shelter" means a facility which provides short term (usually less than 90 days) emergency living accommodations to children in a crisis situation such as abandonment, abuse, neglect or runaway.

(6) "Cleared staff member" means an individual approved by CYFD's background check unit for employment in immediate presence of children/adolescents by means of state and federal criminal background clearance as documented by the clearance letter.

(7) "Client" means any child or adolescent who receives treatment from a certified

residential agency or a licensed residential agency (to include licensed crisis shelter or multi service home).

(8) "Corporal punishment" means form of discipline involving forced exercise or touching a child's body with intent to induce pain; includes shaking, spanking, hitting, etc.; considered abusive.

(9) "Criminal records check" means the process of fingerprinting on state and FBI approved cards and submission of the fingerprint cards for the purpose of obtaining the state and federal conviction records of an individual. As defined in 8.8.3 NMAC. the use of the services of an agency contracted by the department of public safety (DPS) who can access the DPS database in order to obtain state criminal background checks for those applicants who have resided in the state of New Mexico for five years or more may be utilized as a means of obtaining state criminal records checks prior to employment. Federal fingerprinting is still required. The use of an alternate method to obtain state criminal background checks does not replace the federal fingerprinting requirement.

(10) "Criminal records clearance" means a determination made by CYFD based on the results of the criminal records check, that an individual may work directly and unsupervised with children and adolescents.

(11) "Cruelty (mental/ physical) and indifference to the welfare of children" means a failure to provide a child with the care, supervision, and services to which the child is entitled. Examples of physical and mental cruelty include physical device/chemical restraints, striking, slapping or hitting, withholding food or bathroom privileges as punishment, swearing at or threatening a child, and indifference to the basic needs, including physical and psychosocial, of the child and including any abuse as defined in NMSA 1978 32-A-4-2.

(12) "Cultural competence" means the involvement, integration and transformation of knowledge, information and data about individuals and groups of people into specific clinical standards, service approaches, techniques and marketing programs. Cultural competence is illustrated by congruent behaviors, attitudes and policies that match a client's culture to increase the quality and appropriateness of behavioral health care and outcomes.

D. Definitions beginning with "D":

(1) "Deficiency" means a violation of or failure to comply with a provision(s) of the licensing or certification requirements.

(2) "Denial" means action by the licensing authority refusing to grant an annual license or certification on the basis of non-compliance with applicable laws and regulations, and specifically under these regulations, nonpayment of the prescribed fee.

(3) "Department" means the New Mexico health care authority.

(4) "Direct care staff" means any person who is employed, contracted or volunteers at a facility that works directly with the clients in the oversite and delivery of care and supervision.

(5) "Directed plan of correction" means a corrective action plan, timeline and monitoring requirements dictated by HCA.

(6) "Discipline" means non-abusive training that enables a child to develop self-control and orderly conduct in relationship to peers and adults.

E. Definitions beginning with "E":

(1) "Early and periodic, screening, diagnosis and treatment (EPSDT)" means periodic, comprehensive services to persons under 21 years of age; these services are defined in the medicaid program policies.

(2) "Emergency safety intervention" means personal restraint or seclusion.

(3) "Emergency sanction" means an immediate sanction may be imposed on an emergency basis when there exists an immediate threat to human health and safety.

(4) "Emergency service" means unanticipated admission to a hospital or other psychiatric facility; or the provision of emergency services including, but not limited to, treatment for broken bones, cuts requiring sutures, poisoning, contagious diseases requiring quarantine, burns requiring specialized medical treatment, medication under-dose or overdose requiring treatment; or incidents between clients, or between clients and staff resulting in physical or psychological harm or which could result in physical or psychological harm; or other conditions requiring emergency medical services (EMS) specialized treatment at an urgent care center or an emergency room.

(5) "Emergency suspension" means the licensing authority's prohibition of operation of a facility or provide services for a stated period of time by temporary withdrawal of the license, prior to a hearing on the matter, when immediate action is required to protect human health and safety. The emergency suspension is carried out by personal service of an emergency suspension order and notice of a hearing. A hearing must be held within five working days of the effective date of suspension ("five-day hearing"), as noticed in the emergency

suspension order and notice of hearing, unless the right to a hearing is waived by the licensee or the right to a five-day hearing is waived and a hearing is requested at a later date by the licensee.

(6) "Employment history" means a verifiable written summary of employment including names, addresses and telephone numbers of employers, immediate supervisors as well as dates of and explanations for any period(s) of unemployment for a minimum of three years immediately prior to hire for employment by a certified or licensed program.

(7) "Exploitation" means the act or process, performed intentionally, knowingly, or recklessly, of using a client's property for another person's profit, advantage or benefit without legal entitlement.

F. Definitions beginning with "F": "Facility" means publicly or privately owned or operated residence licensed or certified (to include day treatment services) pursuant to these regulations which provides living accommodations, meals, supervision, care, and in some instances, programmatic services to children.

G. Definitions beginning with "G": "Governing body" means the governing authority of a facility which has the ultimate responsibility for all planning, direction, control, and management of the activities and functions of a facility that is licensed or certified pursuant to these regulations.

H. Definitions beginning with "H": [RESERVED]

I. Definitions beginning with "I":

(1) "Incident" means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents. In accordance with 8.370.9.7 NMAC definitions.

(2) "Incident report form" means the reporting format issued by the division for the reporting of incidents or complaints.

(3) "Informal dispute review (IDR)" means the facility may request an informal review of survey deficiencies by providing a written request to the licensing authority within 10 calendar days of receipt of the written survey findings. With the request, the facility shall include information or evidence that justifies the disagreement with a cited deficiency.

(a) The licensing authority will review the submitted information and make a determination.

(b) If the deficiency is removed, a new statement of deficiencies will be issued to the facility.

(c) The facility shall provide a new plan of correction for all remaining deficiencies upon receipt of the new statement of deficiencies.

(d) A copy of the "IDR operating rules" is provided with the survey reports, is available upon request or by accessing the DHI website.

(4) "Informed consent" means a document that reflects that a client and the legal guardian(s) are advised of the benefits, risks, and alternatives of a given medication or treatment and agree to the use of the medication or treatment. Clients aged 14 and above may consent to the use of a medication or treatment without the approval of their legal guardian(s).

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L":

(1) "License" means the document issued by the licensing authority which authorizes the operation of a facility. The term license may mean an annual license or a time-limited temporary license.

(2) "Licensee" means the person in whose name a license for a facility has been issued and who is legally responsible for compliance with applicable laws and regulations.

(3) "Licensing authority" means the division of health improvement of the New Mexico health care authority.

M. Definitions beginning with "M":

(1) "Maintenance" means keeping the building(s) in a repaired and safe condition and the grounds in a safe, sanitary and presentable condition.

(2) "Mechanical restraint" means any device or material attached or adjacent to the child's body that restricts freedom of movement or normal access to any portion of the child's body and that the child cannot easily remove but does not include mechanical supports or protective devices.

(3) "Mobile non-ambulatory" means unable to walk without assistance but able to move from place to place with the use of devices such as walkers, crutches, wheelchairs, etc.

(4) "Moral turpitude" means conduct contrary to justice, honesty, modesty or good morals including such acts as domestic abuse, drunk driving or other similar convictions and as further specified in 8.8.3 NMAC.

(5) "Multi service home" means a facility that provides residential care to children who have been referred by other agencies or parents because of abuse, neglect, delinquency, substance use, or other problems.

N. Definitions beginning with "N":

(1) "Neglect" by individuals or an agency means:

(a) failure to provide any treatment, service, care, medication or item that is reasonably necessary to maintain the health or safety of a client; or

(b) failure to take any reasonable precaution that is necessary to prevent damage to the health or safety of a client; or

(c) failure to carry out a duty to supervise properly or control the provision of any treatment, care, good service or medication reasonably necessary to maintain the health or safety of a client; or

(d) failure to take any reasonable precaution that would prevent the physical abuse, sexual abuse, or sexual exploitation of a client, as defined in the Children's Code at 32A-4-2 NMSA 1978, or the lack of which causes the client to become an abused child or neglected child as defined in the Children's Code at 32A-4-2 NMSA 1978.

(2) "Non-mobile" means unable to move without human assistance from place to place.

(3) "Non-renewal" means a sanction whereby certification and or licensing is cancelled on or about the date of expiration.

O. Definitions beginning with "O": [RESERVED]

P. Definitions beginning with "P":

(1) "Personal restraint" means the application of physical force without the use of any device, for the purposes of restraining the free movement of a client's body.

(2) "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purposes of inducing a client who is exhibiting unsafe or potentially unsafe behavior to walk to a safe location.

(3) "Physician extender" means the term used to refer to physician assistants (working in conjunction with a physician) and nurse practitioners.

(4) "Policy" means a statement of principle that guides and determines present and future decisions and actions.

(5) "Premises" means all parts of buildings, grounds, vehicles and equipment of a facility.

(6) "Procedure" means the action(s) that will be taken to implement a policy; and the written description of such action(s) that serves as instruction to agency staff.

(7) "Programmatic services" means services provided to children to meet special needs above and beyond living accommodations, meals, care, and routine supervision.

(8) "Psychological harm" means harm that causes symptoms of mental or emotional trauma, or that causes distress of sufficient magnitude to cause behavioral change, or physical symptoms that may require psychological or psychiatric evaluation or treatment. A reasonable person standard shall apply when the harmed individual is not able to express their feelings, when there is no discernable response from the harmed individual, when circumstances do not permit a direct evaluation of the individual's psychosocial outcome, or when an individual's reaction to the harm is markedly incongruent with the level of reaction a reasonable person in the individual's position would have to the harm.

(9) "Punishment" means a penalty imposed on a child/adolescent by one in authority for wrongdoing.

Q. Definitions beginning with "Q": [RESERVED]

R. Definitions beginning with "R":

(1) "Reference check" means a documented contact with previous employers, supervisors, co-workers, or other sources, initiated by the agency to evaluate a prospective employee prior to hire by establishing the accuracy of his/her employment history and to obtain other information relevant to potential hire.

(2) "Reduction in licensed capacity" means the reduction of licensed capacity of a residential facility until deficiencies are corrected.

(3) "Reportable incident" means possible abuse, neglect, exploitation, injuries of unknown origin and other events including but not limited to falls which cause injury, unexpected death, elopement, medication error which causes or is likely to cause harm, failure to follow a doctor's order or treatment plan, or any other incident which may evidence abuse, neglect, or exploitation.

(4) "Restraint" means use of a mechanical device, or chemical restraints imposed, for the purposes of discipline or convenience, to physically restrict a client's freedom of movement, performance of

physical activity, or normal access to his body.

(5) "Restricted admissions or provision of services" means the restriction of an agency from providing designated services and from accepting any new clients until deficiencies are corrected.

(6) "Revocation" means a type of sanction making a certification or license null and void through its cancellation.

S. Definitions beginning with "S":

(1) "Sanction" means a measure imposed by the authority on a licensed program, pursuant to these requirements, in response to a finding of deficiency, with the intent of obtaining increased compliance with these requirements.

(2) "Seclusion" means a behavior management technique of involuntary confinement of a client alone in a room where the individual is physically prevented from leaving and is limited to those situations with adequate, appropriate justification, requiring policies and procedures with clear criteria. Seclusion is distinct from therapeutic timeout.

(3) "Seclusion room" means a room designed and utilized to isolate and contain a child who poses an imminent threat of physical harm to self or others or serious disruption to the environment.

(4) "Self-administration of medications" means assistance and supervision of the child in the self-administration of a drug, provided that the medication is in the original container, with a proper label and directions. A staff member may hold the container for the child, assist with opening of the container, and assist the child in self-administering the medication.

(5) "Sexual abuse" means any intentional and uninvited contact, demand or enticement of a sexual nature, including contact with another person's clothed or unclothed genital area, anus, buttocks, or breast(s) if the recipient is female; or, intentional causing of another person to touch any of these areas on one's own or a third party's body; or, consensual contact with any of these areas if the initiator is in a position of significant influence over the recipient by reason of differences in age, physical size, development, intellectual sophistication, sexual sophistication, or position of authority; or, a verbal request, offer, or demand such as would initiate such contact when the initiator of the verbal behavior is in a position of significant influence as described above. Physical contact, as described above, includes contact between clothed or unclothed body parts of individuals, or may be between clothed or unclothed body parts of one person and an object.

(6) "Staff member" means any person other than the owner, operator or director of a facility who has contact with children in care and includes volunteers, full-time and part-time employees.

(7) "Substantial compliance" means that a facility or certified program is found to be without deficiencies.

(8) "Substantiated" means the verification of a complaint based upon a preponderance of reliable evidence obtained from an appropriate investigation.

(9) "Supervision" means one of the following, as indicated by context: the monitoring of clients' whereabouts and activities by the program staff in order to ensure their health, safety, and welfare; or the clinical or managerial oversight of staff.

(10) "Survey" or investigation means an entry into a facility or certified program and examination of the facility premises, inspection of records and interview of staff and clientele to determine compliance with the regulations.

(11) "Suspension" means a type of sanction whereby licensure and or certification is temporarily revoked, pending an appeal hearing for licensure or for certification, during which time the Medicaid provider agreement is not in effect.

T. Definitions beginning with "T": "Therapeutic time-out" means a technique involving individual isolation used as part of a written behavioral plan to prevent or decrease the potential for unsafe behavior and to give the client the opportunity to regain control.

U. Definitions beginning with "U":

(1) "U/L Approved" means approved for safety by the national underwriters laboratory.

(2) "Unsubstantiated" means that the complaint or incident could not be verified based upon a preponderance of reliable evidence obtained from an appropriate investigation.

V. Definitions beginning with "V":

(1) "Variance" means a decision that is made at the discretion of HCA to allow a facility to deviate from a portion(s) or to modify a provision of this rule for an unspecified period of time, provided that the health, safety, or welfare of the clients and staff are not in danger.

(2) "Volunteer" means an individual who works without compensation at an agency in the physical presence or proximity of clients.

W. Definitions beginning with "W": "Waive/waiver" means to refrain from pressing or enforcing compliance with a portion or portions of these regulations for a limited period of time provided the health, safety, or welfare of the clients and staff are not in danger. Waivers are issued at the sole discretion of HCA.

X. Definitions beginning with "X": [RESERVED]

Y. Definitions beginning with "Y": [RESERVED]

Z. Definitions beginning with "Z": [RESERVED]

[8.369.2.7 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.8 RELATED REGULATIONS, LAWS AND CODES: These regulations supplement the following regulations, laws, codes and any future amendments to such regulations or superseding regulations.

A. Control of disease and conditions of public health significance, New Mexico department of health, 7.4.3 NMAC.

B. Health records, New Mexico department of health, 7.1.3 NMAC.

C. Health facility licensure fees and procedures, health care authority, 8.370.3 NMAC.

D. Adjudicatory hearings for licensed facilities, health care authority, 8.370.2 NMAC.

E. Health facility sanctions and civil monetary penalties, health care authority, 8.370.4 NMAC.

F. Governing background checks and employment history verification., New Mexico children, youth and families division, 8.8.3 NMAC.

G. Environmental improvement board regulation 7.6.2 NMAC, food service and food processing, effective August 12, 2000.

H. Building codes, construction industries division of the regulation and licensing department, 14.7.3 NMAC.

I. Immunization requirement., New Mexico department of health, 7.5.2 NMAC.

J. Licensing requirements for child and adolescent mental health facilities, health care authority,8.369.4 NMAC.

K. New Mexico Children's Code 32A-1-1 et. seq. NMSA (1997).

L. Incident reporting, intake, processing and training requirements, health care authority, 8.370.9 NMAC.

[8.369.2.8 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.9 STANDARD OF COMPLIANCE: The degree of compliance required throughout these regulations is designated by the use of the words "shall", "must", "may", or "should." "Shall" or "must" means mandatory. "May" means permissive. "Should" means recommended, strongly advised or desirable.

[8.369.2.9 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.10 TYPES OF FACILITIES AND SCOPE OF SERVICES:

A. Children's crisis shelter: Any facility which provides short term (less than 90 days) emergency living accommodations to children in a crisis situation such as abandonment, abuse, neglect or runaway. A children's crisis shelter provides services on a 24 hour a day basis and is not limited as to total capacity. Children's records required for a children's crisis shelter:

(1) Personal information: full name; date of birth; name address and telephone number of parents or legal guardian.

(2) Circumstances concerning the admission.

(3) Any condition which may require medical attention noticed at time of admission.

(4) Documentation as to efforts to obtain information not available at time of admission of the child.

(5) Admission agreement.

(6) Other records may be necessary based on the services provided and the needs of the children in the program.

B. Multi service home: Any facility that provides residential care to children who have been referred by other agencies or parents because of abuse, neglect, delinquency, substance use, or other problems. The facility provides supervision and direction in daily activities, and other services such as but not limited to individual and family counseling, case management, parenting, and volunteer services. Children's records required for a multi service home:

(1) Personal information:

(a) full name;

(b) social security number;
(c) name, address and telephone number of parents or guardian;
(d) current custody status;
(e) date of birth.

(2) Medical information:
(a) any condition requiring medical attention;
(b) physical evaluation;
(c) immunization records;
(d) list of current medications.

(3) Treatment plan.

(4) Educational information.

(5) Admission agreement.

C. New or innovative programs: professional organizations which have demonstrated a need for new or innovative services for residential shelter care for not more than 16 children on a 24 hour basis which does not fit into one of the above categories may be licensed at the sole discretion of the HCA, if all requirements are met. Children's records required for new or innovative programs:

(1) Personal information:
(a) full name;
(b) date of birth;
(c) social security number;
(d) name, address, and phone number of parents or legal guardian.

(2) Medical information:
(a) any condition requiring medical attention;
(b) list of current medications;
(c) physical evaluation;
(d) immunization records.

(3) Educational information.

(4) Admission agreement.

(5) Other records may be necessary based on the services provided and the needs of the children in the program. These will be determined by the licensing authority prior to issuance of initial license.
[8.369.2.10 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.11 GENERAL LICESNING REQUIREMENTS:

A. Licensure is required: No person or entity shall establish, maintain or operate a residential shelter care facility without first obtaining a license.

B. Application for licensure: An initial or renewal application shall be made on the forms (paper or electronic) prescribed by and available from the licensing authority. The issuance of an application form is not a guarantee that the completed application will be accepted, or that the authority will issue a license. Information provided by the facility and used by the licensing authority for the licensing process shall be accurate and truthful. The licensing authority will not issue a new license if the applicant has had a health facility license revoked or renewal denied or has surrendered a license under threat of revocation or denial of renewal. The licensing authority will not issue a license until the applicant has supplied all of the information that is required by this rule. Any facility that fails to participate in good faith by falsifying information presented in the licensing process shall be denied licensure by the authority. The following information shall be submitted to the licensing authority for approval:

(1) a letter of intent that includes the proposed physical address, the primary population of the facility and a summary of the proposed services; after the letter of intent has been received, an application packet including; the application form, fee schedule and the licensing rule will be issued to the applicant by the licensing authority;

(2) the completed application and the appropriate non-refundable fee(s);

(3) a program narrative identifying and detailing the geographic service area, the primary population including any special needs requirements, along with a full description of the services that the applicant proposes to provide;

(4) policies and procedures annotated to this rule;

(5) copies of organizational documents to include the following list of items:
(a) the names of all persons that have at least five percent

ownership interest in the facility, whether direct or indirect and whether in profits, land or building; this includes the owners of any business entity which owns all or part of the land or building;

(b) the names of all business entities that have at least five percent ownership interest in the facility, whether direct or indirect and whether in profits, land or building; this includes the owners of any business entity which owns all or part of the land or building;

(6) building plans as required at 8.369.2.57 NMAC;

(7) fire authority approval as required at 8.369.2.62 NMAC;

(8) fire alarm inspection reports;

(9) sprinkler system inspection reports as applicable as required by 8.369.2.64 NMAC;

(10) a letter of approval or exemption from the local health authority having jurisdiction for the food service and the kitchen facility;

(11) a copy of liquid waste disposal and treatment system permit from local health authority having jurisdiction;

(12) approval from local zoning authority;

(13) building approval (certificate of occupancy);

(14) copy of appropriate drug permit issued by the state board of pharmacy, if applicable: and

(15) any other information that the applicant wishes to provide or that the licensing authority may request.

C. Temporary license: The licensing authority at its sole discretion may issue a temporary license, if it determines the facility to be in partial compliance with these regulations.

(1) A temporary license may be issued to a new facility before clients are admitted provided that the facility has met all of the life safety code requirements as stated in this rule and policies and procedures for the facility have been reviewed and approved.

(2) Upon receipt of a temporary license, the facility may begin to admit up to three clients.

(3) After the facility has admitted up to three clients, the facility operator or owner shall request an initial health survey from the licensing authority.

(4) Following a determination of compliance with this rule by the licensing authority, an annual license will be issued. The renewal date of the annual license is based on the initial date of the first temporary license.

(5) The licensing authority has the right to determine compliance or noncompliance.

(6) A temporary license shall cover a period of time, not to exceed 120 calendar days.

(7) No more than two consecutive temporary licenses shall be issued. If a second temporary license is issued, an additional non-refundable fee is required. If all requirements are not met within the 240 day time frame, the applicant shall repeat the application process.

D. Annual license: An annual license is issued for one year for a facility that has met all the requirements of this rule.

E. Application for amended license: A licensee shall submit an application for an amended license and the required non-refundable fee to the licensing authority prior to a change with the facility. An amended license is required for a change of location, administrator, facility name, capacity or any modification or addition to the building.

(1) An application for a change of the facility administrator or change of the administrator's name shall be submitted to the licensing authority within 10 business days of the change.

(2) An application for increase in capacity shall be accompanied by a building plan pursuant to 8.369.2.57 NMAC of this rule. A facility shall not increase census until the licensing authority has reviewed and approved the increase and has issued a new license that reflects the approved increase in capacity.

F. Application for license renewal: Each facility shall apply for a renewal of the annual license within 30 business days prior to the license expiration date by submitting the following items:

(1) an application and the required fee;

(2) the licensing authority may not issue a new license if the applicant has been cited repeatedly for violations of this rule or has been noncompliant with plans of correction or payment of civil monetary penalties.

G. License: Any person or entity that establishes, maintains or operates a residential shelter care facility shall obtain a license as required in this rule before accepting clients for care or providing services.

(1) Each facility that provides care or treatment shall obtain a separate license. The license is non-transferable and is only valid for the facility to which it is originally issued and for the owner or operator to whom it is issued. It shall not be sold, reassigned or transferred.

(2) The maximum capacity specified on the license shall not be exceeded.

(3) If the facility is closed and the clients are removed from the facility, the license shall be returned to the licensing authority. Written notification shall be issued to all clients or the clients' surrogate decision maker and the licensing authority at least 30 calendar days prior to the closure.

H. Change of ownership: When a change of ownership occurs, the new owner must submit an initial license application pursuant to the requirements in this section. The new owner must demonstrate compliance with these regulations at the time it takes responsibility of the facility. The licensing authority may, at its sole discretion, approve a change of ownership. In addition to the requirements in subsection B - Application for licensure, the new owner must submit the following at least 60 days prior to completion of the change of ownership:

(1) a letter of intent that explains the terms of the change of ownership and the date the ownership will change;

(2) documents evidencing the change of ownership such as proof of sale or donation, lease of any portion of the facility, or other relevant documents;

(3) building plans of the current structure with any modifications known to the current or new owner.

I. Display of license: The facility shall display the license in a conspicuous public place that is visible to clients, staff and visitors.

J. Unlicensed facilities: Any person or entity that opens or maintains a residential shelter care facility without a license is subject to the imposition of civil monetary penalties by the licensing authority. Failure to comply with the licensure requirements of this rule within 10 days of notice by the licensing authority may result in the following penalties pursuant to health facility sanctions and civil monetary penalties, 8.370.4 NMAC.

(1) A civil monetary penalty not to exceed $5,000 per day.

(2) A base civil monetary penalty, plus a per-day civil monetary penalty, plus the doubling of penalties as applicable, that continues until the facility is in compliance with the licensing requirements in this rule.

(3) A cease and desist order to discontinue operation of a facility that is operating without a license.

(4) Additional criminal penalties may apply and shall be imposed as necessary.

[8.369.2.11 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.12 CAPACITY OF A FACILITY: The capacity of a facility licensed pursuant to these regulations is determined by the following:

A. All facilities, except children's crisis shelters, are limited to a total capacity of 16 children in a single residential building.

B. By square footage of children's sleeping rooms as specified by these regulations.

C. The capacity as reflected on the license issued to a facility licensed pursuant to these regulations must not be exceeded at any time. Exception: The facility may exceed its licensed capacity for a period not to exceed 72 hours due to emergency placements by families, juvenile probation and parole officers, sheriff, police, court or protective services. The facility notifies the HCA within one business day of the event.

[8.369.2.12 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.13 WAIVERS AND VARIANCES. The licensing authority may vary or waive certain licensure requirements for facilities, provided that it would not adversely affect the health, safety or welfare of the clients or staff.

A. Requests for a variance or waiver may be made at any time, shall be made in writing to the licensing authority and shall specify the following:

(1) the section of the rule for which the variance or wavier is requested;

(2) the time period for which the waiver is requested;

(3) if the request is for a variance; the specific alternative action that the facility proposes;

(4) the reason(s) for the request and an explanation of why and how the health, safety and welfare of the clients or staff are not endangered by the requested variance or waiver; and

(5) justification that the goal or purpose of the rule would be satisfied with a waiver or variance.

B. The licensing authority may require additional information from the facility prior to acting on the request.

C. The licensing authority may impose conditions on the variance or waiver.

D. The licensing authority may limit the duration of any waiver.

E. Variances and waivers are non-transferable and shall be kept on file and readily available at the facility.

F. Variances and waivers are granted at the discretion of the licensing authority.

[8.369.2.13 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.14 [RESERVED]

[8.369.2.14 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.15 NON-TRANSFERABLE RESTRICTIONS ON A LICENSE:

A. A license is nontransferable to other persons or locations.

B. The license is null and void and is returned to the HCA when any one of the following situations occur:

(1) Ownership of the facility changes.

(2) The facility changes location.

(3) The licensee of the facility changes.

(4) The facility discontinues or suspends operations.

C. A facility wishing to continue operation as a licensed facility under the above-mentioned circumstances submits an application for an amended license in accordance with these regulations at least 30 calendar days prior to the anticipated change.

[8.369.2.15 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.16 AUTOMATIC EXPIRATIONS OF A LICENSE: A license automatically expires at midnight on:

A. The day indicated on the license as the expiration date, unless renewed, suspended, or revoked; or:

B. The day a facility discontinues or suspends operation; or

C. The day a facility is sold, leased, or otherwise changes ownership or licensee; or

D. The day a facility changes location.

[8.369.2.16 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.17 SUSPENSION OR REVOCATION OF A LICENSE OR IMPOSITION OF EMERGENCY SANCTIONS WITHOUT PRIOR HEARING: In accordance with Subsection H of 24A-1-5 and 24A1-6 NMSA, 1978 of the Health Care Code as amended if immediate action is required to protect human health and safety, the HCA may immediately suspend or revoke a license or impose emergency sanctions pending a hearing, provided such hearing is held within five working days of such action, unless waived by the licensee.

[8.369.2.17 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.18 GROUNDS FOR REVOCATION, SUSPENSION OR DENIAL OF INITIAL OR RENEWAL OF LICENSE, OR THE IMPOSITION OF SANCTIONS OR CIVIL MONETARY PENALTIES

A. When the licensing authority determines that it will deny an application for the renewal of a license or that it will revoke a license, it shall provide notification to the facility, the residents and the surrogate decision makers for the residents.

B. After notice to the facility and an opportunity for a hearing, the authority may deny an initial or renewal application, revoke or suspend the license of a facility or may impose an intermediate sanction and a civil monetary penalty as provided in accordance with the Health Care Code, Section 24a-1-5.2 NMSA 1978.

C. Grounds for implementing these penalties may be based on the following:

(1) failure to comply with any provision of this rule;

(2) failure to allow a survey by authorized representatives of the licensing authority;

(3) the hiring or retaining of any staff or permitting any private duty attendant or volunteer to work with residents that has a disqualifying conviction under the requirements of the caregiver's criminal history screening program, 8.370.5 NMAC;

(4) the misrepresentation or falsification of any information on the application forms or other documents provided to the licensing authority;

(5) repeat violations of this rule;

(6) failure to maintain or provide services as required by this rule;

(7) exceeding licensed capacity;

(8) failure to provide an acceptable plan of correction within the time period established by the licensing authority;

(9) failure to correct deficiencies within the time period established by the licensing authority;

(10) failure to comply with the incident reporting requirements pursuant to incident reporting, intake processing and training requirements, 8.370.9 NMAC.

(11) failure to pay civil monetary penalties pursuant to health facility sanctions and civil monetary penalties, 8.370.4 NMAC.

[8.369.2.18 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.19 HEARINGS AND APPEALS:

A. Hearing procedures for an adverse action taken against a facility by the authority will be conducted in accordance with adjudicatory hearings for licensed facilities, 8.370.2 NMAC.

B. The facility will receive a copy of the hearing procedures at the time that an adverse action is taken or may request a copy by contacting the licensing authority.

C. If immediate action is required to protect human health and safety, the licensing authority may suspend a license or impose an intermediate sanction pending a hearing, provided that the hearing is held within five working days of the suspension or the sanction, unless waived by the facility, in accordance with the Public Health Act, Subsection H of Section 24a-1-5 NMSA**.**

D. A licensee that is subject to an adverse action may request an administrative appeal. Hearing procedures for an administrative appeal of an adverse action taken by the licensing authority against the facility is in accordance with adjudicatory hearings for licensed facilities, 8.370.2 NMAC.

E. A copy of the adjudicatory hearing procedures will be forwarded to the facility when an adverse action is taken against the licensee by the licensing authority.

F. All notices, orders or decisions which the licensing authority issues to a facility prior to a transfer of ownership shall be in effect against both the former owner and the new owner, unless the transfer of penalties to the new owner is rescinded in writing by the authority.

[8.369.2.19 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.20 SURVEY OR MONITORING VISITS

A. The licensing authority shall perform unannounced on-site surveys or monitoring visits at all residential shelter care and mental health facilities for children to determine compliance with this rule.

B. The facility shall provide the licensing authority with full access to all facility operations, buildings and information related to the operation of the facility. This includes interviews with facility staff. The facility shall develop and implement written policies and procedures that promote a culture of safety, open communication in the work environment, including prohibiting retaliation against an employee who cooperates with the survey process and interviews.

C. The most recent survey inspection reports and related correspondence shall be posted in a conspicuous public place in the facility.

D. Failure by the facility to provide the licensing authority access to the premises or information, including client records and interviews with any party with relevant information, may result in the imposition of sanctions including but not limited to civil monetary penalties, license revocation or an order to cease and desist, in accordance with 8.370.4 NMAC, as deemed appropriate by the licensing authority. Impeding the survey or investigation includes the following:

(1) Failure of the facility to provide client records, medical records, staff records, or other records necessary for the survey process. The facility must make available a printout of any record or part of a record upon request in a timeframe that does not impede the survey process.

(2) Failure of the facility to provide records. Undue delays in the production of records are Unacceptable.

[8.369.2.20 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.21 CORRECTIVE ACTION: If violations of this rule are cited, the facility will be provided with an official statement of deficiencies within 10 business days following the survey.

A. Informal dispute review (IDR): The facility may request an informal review of survey deficiencies by providing a written request to the licensing authority within 10 calendar days of receipt of the written survey findings. With the request, the facility shall include information or evidence that justifies the disagreement

with a cited deficiency.

(1) The licensing authority will review the submitted information and make a determination.

(2) If the deficiency is removed, a new statement of deficiencies will be issued to the facility.

(3) The facility shall provide a new plan of correction for all remaining deficiencies upon receipt of the new statement of deficiencies.

(4) A copy of the "IDR operating rules" is available upon request or by accessing the DHI website.

B. Plan of correction (POC): The facility shall submit a plan of correction within 10 calendar days of receipt of the statement of deficiencies and after receipt of a revised statement of deficiencies, when the findings are changed pursuant to an IDR.

(1) The licensing authority may either accept, direct or reject a plan of correction (POC).

(2) If the first POC is rejected by the licensing authority, the facility will be sent a second copy of the statement of deficiencies. The facility shall complete and return the second copy of the statement of deficiencies with an acceptable plan of correction within three business days. The process will repeat until an acceptable plan of correction is received by the authority.

(3) Failure to provide an acceptable plan of correction within a reasonable period of time may lead to civil monetary penalties or other sanctions.

(4) The plan of correction shall:

(a) address how all violations identified in the official statement of deficiencies will be corrected;

(b) address how the facility will monitor the corrective action and ensure ongoing compliance; and

(c) specify the date that the corrective action will be completed.

(5) All cited violations shall be corrected within 30 calendar days from the date of the survey; unless the licensing authority approves an extended date.

(6) Failure to submit an acceptable plan of correction may result in sanctions, including but not limited to civil monetary penalties, suspension or non-renewal of the facility license.

[8.369.2.21 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.22 [RESERVED]

[8.369.2.22 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.23 [RESERVED]

[8.369.2.23 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.24 [RESERVED]

[8.369.2.24 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.25 REPORTING OF INCIDENTS:

A. The facility shall ensure that all suspected cases, allegations or known incidents of abuse, neglect or exploitation are reported in accordance with 8.370.9 NMAC.

B. The facility shall also report any incident immediately upon knowledge of incident but not to exceed 24 hours. The facility shall not delay a report while an internal investigation is conducted. Such incidents may include, but are not limited to:

(1) fire, flood, or other natural disasters which create structural damage to the facility or poses health hazards;

(2) any outbreak of contagious disease dangerous to the public health;

(3) any human act(s) by staff member(s) or client(s) of the facility which presents or poses possible physical or psychological health hazards;

(4) any death of a client;

(5) near fatality (life-threatening injury, organ failure, severe shock, substantial risk of death, life-saving intervention, or ICU admission);

(6) serious injury (requiring utilization of medical attention or hospitalization);

(7) suicide attempt;

(8) allegation of restraint or seclusion;

(9) serious homicidal threat to or by a client;

(10) the use, possession, or distribution of illegal substances by clients or staff;

(11) AMA or emergency discharge;

(12) arrest or detention of a client;

(13) agency knowledge that a staff member has been charged with, or convicted of, a felony or of a misdemeanor involving moral turpitude, including but not limited to convictions referenced in 8.8.3 NMAC;

(14) any suspected client abuse, neglect or exploitation of a client, as defined in these regulations;

(15) incidents that include acts of physical harm to a client by staff or other clients;

(16) absence of clients without permission, including not returning from a pass, for longer than 24;

(17) hours past the designated return time;

(18) any non-informational call made to poison control involving potential harm to a client or resulting in treatment of a client;

(19) injury of unknown origin;

(20) falls which cause injury;

(21) medication error which causes or is likely to cause harm;

(22) failure to follow a doctor's order;

(23) any 911 call;

(24) any incident or unusual occurrence which has or could threaten the health, safety, or welfare of the client and staff;

(25) incidents involving minor illnesses or injuries not requiring emergency services do not need to be reported to the CLCA. Day treatment services, case management services, and behavioral management skills development services are not required to report serious incidents that do not occur during program hours.

C. The facility is responsible for conducting and documenting the investigation of all incidents within five business days and shall submit a copy of the investigation report to the licensing authority. A copy of the report and the documentation, including the date and time that it was submitted to the licensing authority, shall be maintained on file at the facility. The investigation shall include the following:

(1) a narrative description of the incident;

(2) the result of the facility's investigation shall be recorded on the state approved incident report form for the current year, pursuant to 8.370.9 NMAC; and

(3) plans for further actions in response to the incident.

[8.369.2.25 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.26 REPORTS AND RECORDS REQUIRED TO BE ON FILE IN THE FACILITY:

A. Each facility licensed pursuant to these regulations maintains the following reports and records on file and makes them available for review upon request by the HCA:

(1) a copy of the current residential shelter care regulations;

(2) a copy of the latest fire inspection report by the fire authority having jurisdiction including fire alarm inspection reports, and sprinkler system inspection reports, if applicable;

(3) a copy of the last survey conducted by the HCA including any variances granted;

(4) records of monthly fire and emergency evacuation drills conducted by the facility;

(5) health certificates of staff;

(6) agreements or contracts with other health care providers to provide services that are not available in the facility, if applicable;

(7) latest inspection of drug room by state board of pharmacy, if applicable; and

(8) New Mexico environment department approval of private waste, sewage disposal, or kitchen, if applicable;

(9) emergency preparedness plan.

B. New Mexico environment department approval of kitchen and food management and, if applicable, survey reports of private water supply, private waste or sewage disposal. Exception: Those facilities which have been exempted by the environmental improvement division or recognized local authority from meeting the requirements for kitchens and food service and have the exemption on file.

C. One month of menus of meals served in the facility.

D. Documentation of staff criminal record checks and verification of employment history as required by these regulations.

E. A valid drug permit issued by the state board of pharmacy for those facilities licensed pursuant to

these regulations who as a regular part of their program supervise the administration or client's self-administration of medication and safeguard medications for the children in care.

F. A copy of the current American red cross and cardiopulmonary resuscitation certification, or other recognized organization's, standard first aid certificate, for all direct care staff within 90 days of employment.

G. Location of children's records: when an agency has multiple residential shelter care facilities for children located within the same city or town the primary record may be kept in a central office location, however, each facility must have the following information on file for each child in care:

(1) Full name.

(2) Age.

(3) Name address and phone number of person to contact in case of emergency.

(4) Name address and phone number of physician or medical facility to contact in case of emergency.

(5) Any special problems or medical condition that the child may have.

(6) Medications and dosage if applicable.

[8.369.2.26 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.27 FACILITY RULES:

A. Each facility has written rules which are age appropriate and clear and understandable to the children in care. The rules include but are not limited to the following:

(1) the use of tobacco or alcohol;

(2) the use of phones;

(3) visitors and visiting hours;

(4) daily routine of the facility such as bedtimes, free time, study hours, use of personal possessions, playing of radios and watching television; and

(5) leaving the premises of the facility.

B. Facility rules are posted in an area of the facility readily available to the children.

C. Prior to placement in, or admission to a facility, the rules are explained to the child, parents, or legal guardian in a language they can understand.

D. A facility will prohibit the use of firearms, weapons, tobacco, illegal substances, such as street drugs, and alcoholic beverages on the premises of the facility, including in vehicles.

[8.369.2.27 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.28 CHILDREN'S RIGHTS: All facilities licensed pursuant to these regulations must support, protect, and enhance the rights of children.

A. A facility must not make discriminatory distinction or refuse admission and services to any child based solely on consideration of race, religion, color, national origin, ancestry, sex, physical or mental handicap.

B. At time of admission to a facility licensed pursuant to these regulations the child's parent or legal guardian will be given a copy of children's rights as listed below. These rights will also be posted in the facility:

(1) The right to confidentiality of records.

(2) The right to use their own personal possessions.

(3) The right to preparation and maintenance of accurate and complete records during any stay in the facility.

(4) The right to privacy.

(5) The right to humane care.

(6) The right of religious worship.

(7) The right to receive visitors in private at reasonable times.

(8) The right to written and phone access which includes the right to send and receive correspondence unopened by others and the right of private phone conversations.

(9) The right to be free from abuse.

(10) The right to safe and sanitary environment.

C. Any time a child's rights are restricted because of a treatment or program plan, or to protect the health, safety and welfare of the child, the reasons for the restriction of rights must be clearly documented in the child's record.

[8.369.2.28 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.29 ADMISSION AGREEMENT: Prior to admission to a facility, the licensee or authorized

representative and the child's parent/s or guardian, shall sign a written admission agreement. The facility shall keep the original agreement in the child's records, and a copy must be provided to the child's parents or guardian. A standard form may be developed and used. The admission agreement must meet the criteria stated below:

A. The services that will be provided by the facility and the charges for such services must be explained in full.

B. The method of payment for the services must be clearly stated.

C. Terms for termination of the admission agreement either on part of the facility or the parents or guardian must be clearly outlined.

D. A new admission agreement must be made whenever any term of the agreement is changed by either the facility or the parents or guardian.

[8.369.2.29 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.30 PERSONNEL AND STAFFING REQUIREMENTS:

A. Governing body: Each facility licensed pursuant to these regulations shall have a governing body. The governing body shall:

(1) have ultimate authority for the overall operation of the facility program and is responsible for ensuring a facility's continual compliance and conformity with the program goals of the facility;

(2) adopt and periodically review and revise written by-laws and policies. These must define the program goals, describe and define the major lines of authority and areas of responsibility within the facility;

(3) appoint a director to implement its policies.

B. Director: The director of a facility licensed pursuant to these regulations must have the following minimum qualifications:

(1) Be at least 21 years of age.

(2) Be able to pass a background check as stated in 8.8.3 NMAC.

(3) Possess educational background and experience in the principles and practices of childcare.

C. Direct services staff: The direct service staff of a facility licensed pursuant to these regulations must have the following minimum qualifications.

(1) Be at least 18 years of age.

(2) Be able to pass a background check as stated in 8.8.3 NMAC..

(3) Possess adequate education, training, or experience to provide for the needs of children.

(4) Physical, emotional, and mental capacity to ensure the health, safety, and welfare of children pursuant to these regulations.

[8.369.2.30 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.31 STAFF EVALUATION AND DEVELOPMENT:

A. A facility licensed pursuant to these regulations must have a written plan for the orientation, ongoing staff development, supervision and evaluation of all staff members.

(1) A facility licensed pursuant to these regulations must document that the administrator/director and direct service staff members have received appropriate training to include, but not limited to the following:

(a) The facility's emergency and safety procedures on a semi-annual basis.

(b) The principles and practices of child care.

(c) The facility's administrative procedures and overall program goals.

(d) Acceptable behavior management techniques and a state approved behavior management training.

(e) Crisis management including crisis prevention and intervention.

(f) Use of restraints if used in the facility program.

(g) All agency policies and procedures.

(h) Suicide prevention and awareness.

(i) Trauma-informed care.

(2) Each facility shall have an introductory orientation program for all staff. This program shall include orientation to emergency and safety procedures and the responsibilities of the staff member's job assignment.

B. Tuberculosis clearance: Prior to employment each staff member must have a certificate from a physician or medical facility stating that they are free from tuberculosis in a transmissible form as required by

regulations governing control of communicable disease in health facility personnel.

C. First aid/CPR qualifications:

(1) At least one direct child care staff member on duty must have a current first aid certificate.

(2) At least one direct child care staff member on duty must have a current cardiopulmonary resuscitation certification.

D. Child abuse and neglect training: Each staff member of a facility licensed pursuant to these regulations must be thoroughly instructed in the New Mexico Children's Code concerning definition of abuse and neglect and on their responsibility to report all incidents of child abuse or neglect as provided in Section 32A-4-3 NMSA 1978 of the New Mexico Children's Code.

[8.369.2.31 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.32 DIRECT SERVICE STAFF/CHILD RATIO: The following direct services staff/child ratios must be maintained:

A. For children under the age of six years at least one direct service staff for every six children or fraction thereof at all hours.

B. For children over the age of six years at least one direct service staff for every 16 children or fraction thereof during waking hours and one direct services staff to every 12 children during the sleeping hours.

C. Facilities must maintain enough staff to meet clients needs 24 hours a day—adequate staffing is determined by acuity, census, and services offered—not budget constraints.

[8.369.2.32 NMAC - N/E, 5/26/2026; N, xx/xx/2026.2.32 NMAC, xx/xx/xx26]

8.369.2.33 SUPERVISION OF CHILDREN: Children must be supervised at all times. In addition:

A. During the sleeping hours of children, a staff member must be immediately available to respond to their needs.

B. The facility must have at least one staff member on call to cover for any staff member on duty in case of illness or emergency.

[8.369.2.33 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.34 STAFF RECORDS:

A. Each facility licensed pursuant to these regulations must maintain a complete record on file for each staff member or volunteer. Staff records are made available for review upon request of the HCA. Staff records contain at a minimum the following:

(1) Name.

(2) Address and telephone number.

(3) Position for which employed.

(4) Date first employed.

(5) Documentation of a minimum of three references checked within three weeks prior to employment.

(6) A person(s) to contact in case of an emergency.

(7) A copy of the current first aid and CPR certificate for direct child care staff.

(8) Health certificate for all staff having contact with patient/clients stating that the employee is free from tuberculosis in a transmissible form as recommended by the centers for disease control and prevention;

(9) A clearance letter from the CYFD stating the criminal records check has been conducted with negative results as referenced in Section 32A-15-3 NMSA 1978.

B. A daily attendance record of all staff is kept in the facility.

C. The facility shall keep daily schedules of all staff. These schedules are kept on file for at least 12 months. The staff schedule reflects changes as they occur.

[8.369.2.34 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.35 POLICIES AND PROCEDURES: All facilities licensed pursuant to these regulations must have written policies and procedures for the following:

A. Reporting of suspected child abuse, neglect or exploitation, pursuant to these regulations.

B. Actions to be taken in case of accidents or emergencies involving a child, including death.

C. Disciplinary methods utilized by the facility.

D. Actions to be taken when a child is found to be absent without authorization.

E. The administration and preparation of medication.
F. The handling of children's funds.
G. Confidentiality of the children's records.
H. The use of seclusion rooms or restraints, if used by the facility.
I. Maintenance of building(s) and equipment.
J. Fire and evacuation.
K. The handling of complaints received from clients, parents, guardians or any other person.
L. The onboarding and training of employees.
M. Policies and procedures must be reviewed annually and revised as needed.
N. written emergency plans, policies and procedures for medical emergencies, power failure, fire or natural disaster; plans shall include evacuation, persons to be notified, emergency equipment, evacuation routes, refuge areas and the responsibilities of personnel during emergencies; plans shall also include a list of transportation resources that are immediately available to transport the residents to another location in an emergency; the emergency preparedness plan shall address two types of emergencies:
(a) an emergency that affects just the facility; and
(b) a region/area wide emergency.
[8.369.2.35 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.36 PERSONNEL AND STAFF REQUIREMENTS CRIMINAL RECORDS CHECKS:
A. Criminal record checks pursuant to Section 32A-15-3 NMSA 1978:
(1) The agency conducts appropriate, legally permissible and mandated state and federal criminal records inquiries into the background of agency personnel, including employees and volunteers, and prospective employees and volunteers.
(2) Non-compliance with these criminal records checks standards may result in sanction or loss of license.
B. Staff members who work directly with children and who are counted in the staff-to-child ratio are 18 years of age or older.
C. Persons employed solely for clerical, cooking, maintenance or other support activities who are not left with children unsupervised, are not included in the staff coverage.
[8.369.2.36 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.37 OUTDOOR PLAY AREAS, EQUIPMENT, TOOLS, VEHICLES, AND OTHER LIKE ITEMS:
A. Facilities providing services to children 12 years of age and younger will have an outdoor play area, meeting the following requirements:
(1) The play area should be provided with equipment appropriate to the age level of the children.
(2) A play area located adjacent to a public street or highway will have the play area fenced with at least one latched gate available for emergency exits. All stationary outdoor play equipment for children should be positioned in a way that helps prevent accidents, permits freedom of action, and is securely fastened to the ground. Outdoor play equipment for children shall include energy-absorbing surfaces and be maintained in good repair at all times.
B. Power-driven tools and equipment, motor vehicles, chemicals, and like items of a dangerous nature are kept locked and secured from children. Any use of such items by the children is done only under the close supervision of a staff member.
[8.369.2.37 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.38 COUNSELING AREA: A facility will provide a designated room or area to allow private discussions and counseling sessions, as appropriate, between individual children, families, staff and others as appropriate.
[8.369.2.38 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.39 EDUCATION: Each facility licensed pursuant to these regulations ensures that every child in residence attend(s) an appropriate education program in accordance with New Mexico law.
[8.369.2.39 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.40 TRANSPORTATION: Each facility licensed pursuant to these regulations, which transports children as part of their program activities, meets the following requirements:

A. Any vehicle used for transporting children must carry vehicle liability insurance. The amount of coverage may not to be less than the basic limits set by the Financial Responsibility Law.

B. Each vehicle used for transportation of children must be licensed, registered and meet all applicable laws of New Mexico.

C. Occupancy in a vehicle cannot exceed the capacity recommended by the manufacturer.

D. Drivers of vehicles used to transport children must be licensed and abide by state and local laws;

E. Seat belt restraint laws of New Mexico must be adhered to at all times; each child must remain seated while the vehicle is in motion and age-appropriate restraints must be used during transportation.

F. Children may not be transported in the open bed of trucks.

G. Each vehicle used for transportation of children must be equipped with a fire extinguisher, water, blanket, first aid kit, and first aid book.

H. Children must be loaded and unloaded at the curb side of the vehicle.

[8.369.2.40 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.41 IMMUNIZATIONS:

A. Every child in the facility must be immunized according to the immunization schedule of the New Mexico health department, public health division.

B. When an immunization record cannot be obtained for the child at the time of admission or within 30 days after admission, the facility arranges for all immunizations required by the department of health. Exception: children's crisis shelters may accept children with no immunization schedule.

C. Exemptions from immunizations for religious or other grounds are only accepted if approved by the public health division of the department of health.

[8.369.2.41 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.42 NOTIFIABLE DISEASES:

A. A current list of notifiable diseases must be posted in each facility.

B. While in a facility, any child who becomes ill from a suspected notifiable disease, as defined by the New Mexico department of health is immediately referred to a physician or medical facility.

C. Each facility reports any notifiable disease occurring to a child to the local public health field office.

[8.369.2.42 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.43 MANAGEMENT OF DRUGS AND PHARMACEUTICALS:

A. The facility must have written procedures approved by a physician, pharmacist or nurse regarding how staff should administer over-the-counter medications to children in care. Other than over-the-counter medications, a facility does not acquire, store or dispense medications. Exception: Facilities providing services which require regular use of controlled or prescription medication for the children under care must hold and display an appropriate drug permit as determined by the state board of pharmacy.

B. All medications and poisonous substances must be kept in a locked cabinet or other container inaccessible to the children. The key to the medication storage container is only available to the authorized staff.

C. Poisonous substances and medications labeled for "external use only" are not accessible to children and are kept separate from other medication.

D. Medications prescribed for one child are not to be given to any other child.

E. All prescribed medications are kept in their original prescription containers. Only medications which can be self-administered by the child or with assistance and supervision in self-administration are kept in the facility. The staff member assisting in self-administration of medication may hold the container, assist the child in opening the container and assist the child in self-administering the medication.

F. Medication for self-administration is not prepared in advance.

G. All medication given to a child is entered in the child's record with the date, time and dosage and initials of the staff member assisting with the self-administration of the medication.

H. Medications which require refrigeration are kept in a separate locked box within a refrigerator, a locked refrigerator, or a refrigerator in a locked room.

I. All outdated medications are disposed of in a manner approved by the state board of pharmacy.

[8.369.2.43 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.44 CHILDREN'S ROOMS:

A. Each child's room must be provided with, but not limited to the following:

(1) a bed as defined in 8.369.2.46 NMAC of these regulations;

(2) a dresser or other adequate storage space for private use;

(3) an individual closet or closet areas with a clothes rack and shelves accessible to the child;

(4) a table or desk with a reading lamp and chair, or a well-lighted area within the facility with desk or table for a study area; and

(5) window shades, drapes, or blinds in good repair.

B. Any item other than the bed may be removed from a child's room if it is documented in the child's record that such items would be a danger to the health or safety of the child.

C. For facilities providing care to children under two years of age, no more than seven children of that age will occupy a designated bedroom space.

[8.369.2.44 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.45 SPECIAL REQUIREMENTS FOR INFANT CARE: A facility licensed pursuant to these regulations who cares for children under age two must meet the following requirements:

A. Toilet training equipment must be kept clean and in a sanitary condition.

B. Staff members must wear non-porous single-use gloves and wash their hands with soap after diapering and before and after feeding any child.

C. Children's hands must also be washed with soap after diapering and before and after eating.

D. Bed linens, clothes, and diapers must be changed when soiled.

E. Diapers must be changed at the child's individual crib or at a diaper table which must be thoroughly cleaned following each use.

F. Dirty diapers must be kept in closed containers.

G. Infants must be held during feeding. Bottles must not be propped.

H. Children who prefer to bottle-feed themselves may be allowed to do so with supervision.

I. Provisions must be made to allow for each child's own eating and sleeping patterns.

J. Those children who are non-walking but capable of crawling or creeping, shall be given the opportunity to do so frequently during the day.

[8.369.2.45 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.46 CHILDREN'S BEDS, CRIBS AND HIGHCHAIRS:

A. The following minimum requirements for beds must be met by a facility licensed pursuant to these regulations:

(1) Children's beds are at least 30 inches wide, of sturdy construction and in good repair.

(2) If bunk beds are used, the vertical distance between the mattresses is sufficient to allow each occupant to sit up comfortably in bed.

(3) Each bed has a clean, comfortable, nontoxic mattress which is waterproof or has a waterproof covering and a comfortable mattress pad.

(4) Each bed is provided with a clean, comfortable pillow and pillowcase.

(5) Each bed is provided with two clean sheets and bedding that is appropriate for weather and climate.

(6) Beds are spaced at least 36 inches apart.

B. The following minimum requirements for cribs must be met by a facility licensed pursuant to these regulations:

(1) Cribs must be of sturdy construction with slats no more than two and 3/8 inches apart, and may not have drop-sides, bumpers, loose parts, or corner posts taller than 1/16 in.

(2) Cribs must have clean, individual crib size bedding.

(3) The crib mattress must be completely and securely covered with waterproof material.

(4) Stacking cribs is prohibited.

(5) The minimum spacing between cribs when occupied must be 30 inches on all sides, except sides that are against a wall.

C. Highchairs must have safety straps and be of non-tip construction.

[8.369.2.46 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.47 LIVING AND MULTI PURPOSE ROOMS: Rooms for living or multi-purpose use are to be provided with reading lamps, tables, chairs, or couches. The furnishings must be well constructed, comfortable and kept in good repair.
[8.369.2.47 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.48 DINING AREA: A dining area is to be provided for meals.

A. Tables and chairs for the dining area shall accommodate the number of children for whom the facility is licensed and will be appropriate to the age of the clients served.

B. The living and multi-purpose room may be used as a dining area if the dining area portion does not exceed fifty percent of the available floor space and still allows comfortable arrangement of necessary furnishings for a living area.
[8.369.2.48 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.49 LAUNDRY AND LINEN SERVICES:

A. The facility provides laundry services to the children either on the premises or by use of a commercial laundry or linen service. The following are minimum requirements for clean linen:

(1) The sheets and pillowcase are changed at least one time per week, when there is a change of occupant, and when soiled.

(2) The mattress pad, blankets and bedspread are laundered at least one time per month, when soiled, and when there is a change of an occupant. The mattress is turned at least one time per month.

B. If laundry services are provided on the premises, each laundry room or area is equipped with a washer and dryer.

C. Children may do their own laundry if they are capable and wish to do so, or if it is part of their training or rehabilitation program.

D. Soiled linen and clothing must be stored in containers which are waterproof, easily cleaned and have tight fitting lids, until washed.

E. Under no circumstance is collection, sorting, storage, or washing of soiled clothing or linens done in a food preparation, food storage, or food service area.

F. A separate, dry, well-ventilated storage area for clean linen shall be provided.
[8.369.2.49 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.50 CLOTHING:

A. Each child shall have their own clothing, which is clean, neat, in good repair and appropriate to the season.

B. If necessary, children's clothing may be inconspicuously marked with their name.

C. The use of a common clothing pool is strictly prohibited.
[8.369.2.50 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.51 PERSONAL POSSESSIONS:

A. A facility will allow a child in care to bring their personal belongings to the facility and to acquire belongings of their own while living in the facility.

B. The facility may, within reason, and because of the child's program, limit or supervise the use of these items while the child is in residence.

C. Where extraordinary limitations are imposed, the child is informed by the facility of the reasons, and the reasons are recorded in the child's record.

D. The facility makes provisions for the protection of the children's property.
[8.369.2.51 NMAC - N/E, 5/26/2026; N, xx/xx/2026.]

8.369.2.52 PETS:

A. Pets are permitted in a facility licensed pursuant to these regulations for the enjoyment of the children providing that adequate accommodations can be made for the health and safety of the pet and children.

B. Pets are not permitted to eat or sleep in the kitchen or food preparation areas.

C. Pets are inoculated as required by state or local law and records of inoculation kept on file in the facility.

D. If pets cannot be safely accommodated at the facility, visitation outside on the facility grounds should be accommodated.

[8.369.2.52 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.53 PERSONAL HYGIENE: Each child is provided with their own clearly identified toothbrush, comb, hairbrush and other items for personal hygiene.
[8.369.2.53 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.54 MEDICAL CARE:

A. A facility licensed pursuant to these regulations arranges for a general medical examination by a physician for each child in care within 90 calendar days of admission unless the child has received such an examination within 12 months before admission and the results of the examination are available to the facility.

B. The facility arranges to secure timely and medically appropriate treatment for any condition discovered by the medical examination.

C. The facility arranges periodic medical examination of all children at intervals recommended by the physician.

D. The facility ensures that children receive timely, competent medical care when they are ill and that they continue to receive necessary follow-up medical care.

E. The facility arranges to secure any necessary dental care.

F. Each child more than three years of age has an annual dental examination.

G. Each facility has a first aid kit and first aid manuals readily accessible to the staff and secure from the children.

H. The first aid kit contains, at a minimum, band aids, gauze pads, adhesive tape, scissors, soap, and syrup of Ipecac, gloves and a thermometer.

I. In case of accidental poisoning, the facility immediately contacts emergency services and the poison control center and its directions are followed.

J. A facility will treat blood spills cautiously and promptly disinfect the area. Staff members will wear non-porous, single-use gloves when handling a blood spill, bloody diarrhea, bloody nose, or any other blood. A facility will clean contaminated surfaces first with hot soapy water then with a disinfecting solution effective against HIV and Hepatitis B.
[8.369.2.54 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.55 NUTRITION:

A. Each facility licensed pursuant to these regulations provides to the children a planned, nutritionally adequate diet.

B. When the food service of the facility is not directed by a nutritionist or dietitian, regular, planned consultation with a nutritionist or dietitian is obtained by the facility.

C. A copy of the current week's menu is posted in the kitchen of the facility.

D. Posted menus are followed and any substitution is of equivalent nutritional value and is recorded on the posted menu.

E. The facility must keep one month of menus as served on file.

F. The facility provides at least three meals a day served at regular times, as follows:

(1) Normally not more than a 14-hour span between the evening meal and breakfast the following day.

(2) Normally not less than eight hours between breakfast and the evening meal of the same day.

G. The same main dishes are not served within a week period. Identical menus are not served on a one-week-cycle basis.

H. Time allowed for meals is sufficient to enable the children to eat at a leisurely rate, encourage socialization and to provide a pleasant mealtime experience.

I. Any and all allergies, or specific dietary needs based on health or religious requirements shall be met for any individual child.
[8.369.2.55 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.56 FOOD MANAGEMENT:

A. Each facility meets the requirements of all state and local regulations governing food service, posts inspection reports in a conspicuous place and maintains a file of any deficiencies noted in an inspection.

B. Each facility has a copy of the current applicable food service regulations as published by the

environmental improvement division. Exception: Those facilities which have a written exemption from the environmental improvement division or recognized local authority.

C. Dry and evaporated milk may be reconstituted only if used for cooking purposes. All milk for drinking is grade-a pasteurized and served directly from its original container or from a dispenser approved by the environmental improvement division.

D. Potentially hazardous food, such as meat, milk and custard, is kept at 40 degrees fahrenheit or below. Hot food is kept at 140 degrees fahrenheit or above during preparation and service.

E. Each refrigerator and freezer contains an accurate thermometer reading within two degrees fahrenheit, located in the warmest part of the appliance in which food is stored. The temperature of the refrigerator is 40 degrees fahrenheit or below. The temperature for the freezer is 32 degrees fahrenheit or below.

F. Refrigerators, freezers, cupboards and other food storage areas are kept clean and sanitary at all times.

G. Drugs, biologicals, poisons, stimulants, detergents, and cleaning supplies are not kept in the same storage area used for storage of foods.

H. Dishes and utensils are properly washed, sanitized, and stored in accordance with food service regulations.

I. All garbage is stored in containers which are waterproof, easily cleaned, and have tight-fitting lids. [8.369.2.56 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.57 BUILDING REQUIREMENTS:

A. All facilities licensed pursuant to these regulations are accessible to, and usable by, disabled employees, staff, visitors, and clients.

B. Trailers and mobile homes are not used for living or activity areas for children.

C. In the design or selection of a building, attention is given to the special needs of children and staff. Conditions which are detrimental to health, safety, and welfare of the children are to be avoided.

D. All buildings on the premises housing children will be considered part of the facility and must meet all requirements of these regulations. Children living in any building on the premises will be counted in the capacity of the facility. Where a part of the facility's services is contained in another facility, separation and access are maintained as described in current building and fire codes.

E. A facility applying for licensure pursuant to these regulations may be subject to additional requirements not contained herein. Building and fire codes and other applicable standards of city, county, or municipal governments may establish such additional requirements. Applicable standards may be incorporated by the licensing authority in its licensing process.

F. Floor and site plans: all applications for initial licensure must be accompanied by a set of floor plans for the facility:

(1) Floor and site plans are of professional quality, on substantial paper of at least 18 inches by 24 inches and are drawn to an accurate scale of one-fourth foot to one foot.

(2) Floor plans include:

(a) Proposed use of each room, e.g., staff's bedroom, staff's toilet, children's bedrooms (include number of children intended to sleep in each room), living room, kitchen, laundry, etc.

(b) Interior dimensions of all rooms.

(i) One building or wall section showing exterior and interior wall construction. Section includes floor, wall, ceiling, and the finishes, e.g., carpet, tile, gypsum board with paint, wood paneling.

(ii) Door types, swing, and sizes of all doors, e.g., solid core, hollow core, three feet zero inches by six feet eight inches by one and three-quarters inches thick.

(iii) Air conditioning, if applicable.

(iv) All sinks, tubs, showers and toilets.

(v) Windows including size, type, sill height, and openable area.

(vi) Any level changes within the building, e.g., sunken living room, ramps, steps.

(vii) A site/plot plan must be provided to indicate surrounding conditions including all steps, ramps, parking, walks and any permanent structures.

(viii) Indicate if the building is new construction, remodeled or alteration addition. If remodeled or an addition, the plans indicate existing and new construction plans.

G. Floor and site plans are reviewed by the licensing authority for compliance, and comments may be

sent to the applicant specifying any needed changes or requests for any additional information.
[8.369.2.57 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.58 MAINTENANCE OF BUILDINGS AND GROUNDS:

A. Facilities must maintain the building(s) and grounds in good repair at all times. Such maintenance includes, but is not limited to, the following:

(1) All electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems must be maintained in a safe and functioning condition, including regular inspections of these systems.

(2) All equipment used for client care must be kept clean and in good repair.

(3) All furniture and furnishings must be kept clean and in good repair.

B. The grounds of the facility must be maintained in a safe and sanitary condition at all times.
[8.369.2.58 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.59 HOUSEKEEPING:

A. The facility must be kept free from offensive odors and accumulations of dirt, rubbish, dust, and safety hazards.

B. Children's rooms, examination rooms, meeting rooms, waiting rooms and other areas of daily usage must be cleaned daily.

C. Floors and walls shall be constructed of a finish that can be easily cleaned. The floor polishes will provide a slip-resistant finish.

D. Bathrooms, lavatories, and drinking fountains shall be cleaned daily and as often as necessary to maintain a clean and sanitary condition.

E. Deodorizers may not be used to mask odors caused by unsanitary conditions or poor housekeeping practices.

F. Combustibles such as cleaning rags and compounds must be kept in closed metal containers in areas providing adequate ventilation and away from children's rooms and common areas.

G. Poisonous or flammable substances must not be stored in residential sleeping areas, food preparation areas or food storage areas. All poisonous substances must be kept in a locked cabinet or other container inaccessible to the children and away from living and common areas.

H. Storage areas shall be kept free from accumulations of refuse, discarded equipment, furniture, paper, and the like.
[8.369.2.59 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.60 WATER:

A. A facility licensed pursuant to these regulations shall be provided with an adequate supply of water which is of a safe and sanitary quality suitable for domestic use.

B. If the water supply is not obtained from an approved public system, the private water system is inspected, tested, and approved by the New Mexico environment department prior to license. It is the facility's responsibility to ensure that subsequent periodic testing or inspection of such private water system is made at intervals prescribed by the New Mexico environment department or other recognized authority. The facility must maintain copies of all inspection reports and certificates pertaining to its water supply.

C. Hot and cold running water shall be distributed at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

D. Back flow preventers (vacuum breakers) shall be installed on hose bibs, laboratory sinks, janitor's sinks, and on all other water fixtures to which hoses or tubing can be attached.

E. Water distribution systems are arranged to provide hot water at each hot water outlet at all times. Hot water provided to hand washing facilities shall not exceed 120 degrees fahrenheit.
[8.369.2.60 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.61 SEWAGE AND WASTE DISPOSAL:

A. All sewage and liquid wastes must be disposed into a municipal sewage system where such facilities are available.

B. Where a municipal sewage system is not available, the system in use is inspected and approved by the New Mexico environment department or recognized local authority. The facility must maintain copies of all inspection reports and certificates issued pertaining to its waste disposed system(s).

C. Where municipal or community garbage collection and disposal service are not available, the method of collection and disposal of solid wastes generated by the facility is inspected and approved by the New Mexico environment department or recognized local authority.

D. Facilities licensed pursuant to these regulations which generate infectious waste ensure that the method of disposal of such wastes meets the requirements of the New Mexico environment department or recognized local authority.

E. All garbage and refuse receptacles are durable, have tight fitting-lids, are insect/rodent proof, washable, leakproof and constructed of materials which do not absorb liquids. Receptacles are kept clean.

[8.369.2.61 NMAC - N/E, 5/26/2026; N, xx/xx/2026.]

8.369.2.62 FIRE SAFETY CLEARANCES AND INSPECTIONS:

A. All current applicable requirements of state and local codes for fire prevention and safety must be met by the facility. The facility maintains a copy of all applicable inspection reports and certifications.

B. Each facility requests from the fire authority having jurisdiction an annual inspection of the facility. If the policy of the fire authority having jurisdiction does not provide for an annual inspection of the facility, the facility documents the date the request was made and to whom. The facility must contact HCA for the fire inspection. If the fire authority does conduct annual inspections, a copy of the latest inspection is kept on file in the facility.

C. Written documentation from the state fire marshal's office or fire authority having jurisdiction evidencing a facility's compliance with applicable fire prevention codes must be submitted to the HCA prior to issuance of an initial license.

D. Each facility must have an evacuation plan conspicuously posted in each separate area of the building showing routes of evacuation in case of fire or other emergency.

[8.369.2.62 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.63 FIRE SAFETY:

A. All staff of the facility knows the location of, and is instructed in, proper use of fire extinguishers procedures to be observed in case of fire or other emergency. The facility requests the fire authority having jurisdiction to give periodic instruction in fire prevention and techniques of evaluation.

B. Facility staff is instructed as part of their duties to constantly strive to detect and eliminate potential safety hazards, such as loose handrails, frayed electrical cords, faulty equipment, blocked exits or exit ways, and any other condition which could cause burns, falls, or other personal injury to the children or staff.

C. Each child is, upon being accepted into the facility, given an orientation tour of the facility to include, but not be limited to, the location of the exits, fire extinguishers, and telephones, and is instructed in accordance with their abilities on actions to be taken in case of fire or other emergencies.

D. The facility must conduct a least one fire and evacuation drill each month.

(1) Logs are maintained by the facility showing the date, time, names of staff participating in the drill and outlining any problems noted in the conduct of the drill.

(2) Fire drills are held at different times of the day. When conducting fire drills, emphasis is placed upon orderly evacuation, under proper discipline, rather than upon speed.

E. An easily accessible telephone for summoning help in case of an emergency must be available in the facility.

F. A list of emergency numbers, including, but not limited to, fire department, police department, ambulance services, and poison control center must be prominently posted by each telephone.

[8.369.2.63 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.64 FIRE DETECTION AND RESPONSE SYSTEMS:

A. A manually-operated, electrically monitored fire alarm system must be installed in each facility as required by the national fire protection association (NFPA) 101 (Life Safety Code or Uniform Building Code). Multiple-story facilities require manual alarm systems.

B. The facility must be equipped with smoke detectors and carbon monoxide detectors as required by the NFPA 101 (Life Safety Code or Uniform Building Code) and approved in writing by the fire authority having jurisdiction as to number, type and placement.

C. Approved smoke detectors powered by house electrical service with battery backup must be installed to provide when activated an alarm which is audible in all sleeping areas.

D. Smoke detectors must be installed in corridors at no more than 30 feet spacing. Areas of assembly

such as the dining and living room must be provided with smoke detectors. All smoke detectors must be connected to the electrical system of the facility and have battery backup.

E. The facility must have a heat or smoke detector in the kitchen powered by the electrical system of the facility, and which has battery backup.

F. Fire extinguishers as approved by the state fire marshal or fire prevention authority having jurisdiction must be located in the facility. Facilities must as a minimum have two 2AIOBC fire extinguishers, one located in the kitchen or food preparation area, and one centrally located in the facility.

G. Fire extinguishers, alarm systems, automatic detection equipment and other firefighting equipment must be properly maintained and inspected as recommended by the manufacturer, state fire marshal or fire authority having jurisdiction.

H. All fire extinguishers shall be inspected yearly and recharged as specified by the manufacturer, state fire marshal, or fire authority having jurisdiction. All fire extinguishers must be tagged, noting the date of inspection.

I. Facility carpeting must be of at least a class II rating.

[8.369.2.64 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.65 LIGHTING AND LIGHTING FIXTURES:

A. The facility must ensure that lighting is sufficient to make all parts of each of the following areas clearly visible:

(1) All spaces occupied by children and staff, machinery, or equipment within buildings, approaches to buildings, and parking lots.

(2) All storerooms, stairways, hallways, entrances, exits, access ways, and other areas used by children and staff.

B. All lighting fixtures must be shielded.

[8.369.2.65 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.66 EMERGENCY LIGHTING:

A. A facility must provide emergency lighting which activates automatically upon disruption of electrical service.

B. The emergency lighting must be sufficient to illuminate paths of entrance and egress to the facility.

[8.369.2.66 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.67 EXITS:

A. Each facility and each floor of a facility must have exits as required/permitted by the national fire protection association 101 (Life Safety Code) or Uniform Building Code.

B. Each facility must have at least two approved exits, remote from each other.

C. Each exit must be clearly marked with signs having letters at least six inches high whose principal strokes are at least an inch wide. Exit signs must be visible at all times.

D. Exits, exit paths, or means of egress must not pass through hazardous areas, storerooms, closets, bedrooms, or spaces subject to locking.

E. Sliding doors are not considered acceptable as required exits.

F. When illuminated exit signs are present, they are maintained in operable condition.

G. Exit ways must be kept free from obstructions at all times.

H. Exit doors must be at least 36 inches wide.

[8.369.2.67 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.68 ELECTRICAL STANDARDS:

A. All electrical installation and equipment must comply with all current state and local codes.

B. Circuit breakers or fused switches that provide electrical disconnection and over current protection must be:

(1) Enclosed or guarded to provide a dead front assembly;

(2) Readily accessible for use and maintenance;

(3) Set apart from traffic lanes;

(4) Located in a dry, ventilated space, free of corrosive fumes or gases;

(5) Able to operate properly in all temperature conditions;

(6) Located on the same floor and in the same facility area as the circuits they serve; and

(7) Marked, showing the area each circuit breaker or fused switch services;

C. The use of jumpers or devices to bypass circuit breakers or fused switches is prohibited.

[8.369.2.68 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.69 ELECTRICAL CORDS AND RECEPTACLES:

A. Electrical cords and extension cords must be U/L approved.

B. Electrical cords and extension cords must be replaced as soon as they show wear.

C. Under no circumstances may extension cords be used as a general wiring method or used in a series.

D. Extension cords must be plugged into an electrical receptacle within the room where used and are not connected in one room and extended to another room.

E. Duplex grounded type electrical receptacles (convenience outlets) must be installed in all areas in sufficient quantities for tasks to be performed as needed.

F. The use of multiple sockets (gang plugs) in electrical receptacles is strictly prohibited. Surge protectors are not considered gang plugs under these regulations.

G. The main electrical service line has a readily available disconnect switch. All staff of the facility must know the location of the electrical disconnect switch and how to operate it in case of an emergency.

H. Facilities that care for children less than six years of age must have safety electrical receptacles or provide protective covers.

[8.369.2.69 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.70 HEATING, VENTILATION, AND AIR-CONDITIONING:

A. Heating, air-conditioning, piping, boilers, and ventilation equipment must be furnished, installed and maintained to meet all requirements of current state and local mechanical, electrical, and construction codes.

B. The heating method used by the facility has a minimum of 68 degrees fahrenheit with controls provided for adjusting the temperature as appropriate for client and staff comfort.

C. The use of unvented heaters, open flame heaters or portable heaters is prohibited.

D. A supply of outside air sufficient to assure proper combustion must be provided in all spaces where fuel-fired boilers, furnaces, or heaters are located to assure proper combustion.

E. All fuel-fired boilers, furnaces, or heaters must be connected to an approved venting system to take the products of combustion directly to the outside air.

F. Each facility must be adequately ventilated at all times to provide fresh air and the control of unpleasant odors by either mechanical or natural means.

G. All gas-fired heating equipment must be provided with one hundred percent automatic cutoff control valve that operates in the event of pilot failure.

H. The facility must be provided with a system for maintaining client and staff comfort during periods of hot weather.

I. All boilers, furnaces or heater rooms are protected from other parts of the building by construction having a fire resistance rating of not less than one hour and doors which are self-closing with a three-quarters of an hour fire resistance.

J. All central ventilation and air condition systems must have provided filters having efficiencies greater than twenty-five percent.

K. All gas-burning heating and cooking equipment must be connected to an approved venting system to take the products of combustion directly to the outside air.

L. All openings to the outer air used for ventilation must be screened with screening material of not less than 16 meshes per lineal inch.

M. Screen doors must be equipped with self-closing devices.

N. A facility will install barriers or take other steps to ensure heating units are inaccessible to children. Heating units include hot water pipes, hot water baseboard heaters hotter than 110 degrees fahrenheit, fireplaces, fireplace inserts and wood stoves.

[8.369.2.70 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.71 WATER HEATERS:

A. Fuel-fired hot water heaters must be enclosed and separated from other parts of the building by construction as required by current state and local building codes. Any inspection report or certificate is maintained

by the facility.

B. All water heaters must be equipped with a pressure relief valve (pop-off valve) vented to the outside or a drain in the building.

C. Water heaters must not be located in sleeping rooms, or rooms opening into sleeping rooms.

[8.369.2.71 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.72 TOILETS, SINKS AND BATHING FACILITIES:

A. All fixture and plumbing must be installed in accordance with current state and local plumbing codes.

B. All toilets must be enclosed and vented.

C. All toilet rooms must be provided with a lavatory for hand washing.

D. All toilet rooms must be kept supplied with toilet paper.

E. All lavatories for hand washing must be kept supplied with disposable towels for hand drying or provided with a mechanical blower. The use of a common towel is prohibited.

F. The location, type and minimum number of toilets, sinks and bathing facilities are as follows:

(1) Toilets and sinks for children must be provided in a ratio of at least one toilet and one sink for every six children in care.

(2) Showers or tubs must be provided in a ratio of at least one shower or tub for every six children in care.

G. If a facility provides services to both sexes, separate facilities must be provided for each sex in the same ratio as stated above.

H. A combination of a tub and shower is permitted.

I. Tubs and showers have a slip resistant surface.

J. Facilities serving disabled children must have grab bars in tubs and showers.

K. Facilities serving disabled children must have toilet room doors that swing out.

L. If a facility has live-in staff, a separate toilet, sink, and bathing facilities for staff must be provided and are not counted in the ratios stated above.

M. Toilets, sinks, and bathing facilities must be readily available to children. No passage through a child's room by another child to reach a toilet, sink or bathing facility is permitted.

N. New facilities must have a minimum of one toilet and bathing facility which meet the requirements for the disabled.

O. A facility providing services to children under age two must have a hand-washing sink in the bedroom area, or a bathroom in the bedroom area.

[8.369.2.72 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.73 CORRIDORS:

A. Corridors in each facility must have a minimum width of 36 inches.

B. Corridors in newly constructed facilities must have a minimum width of 44 inches.

C. Corridors must have a clear ceiling height of not less than seven feet measured from the lowest projection of the ceiling.

D. Corridors must remain clear and free of obstructions at all times.

E. In facilities contained within existing commercial or residential buildings, lesser corridor widths may be allowed if not in conflict with building or fire codes and if approved by the HCA prior to occupying the facility.

[8.369.2.73 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.74 DOORS:

A. All exit doors must have a minimum width of 36 inches.

B. All sleeping room doors must have at least one and three quarter inches bonded solid core, with a minimum width of 32 inches.

C. All doors to toilet and bathing facilities must have a minimum width of 24 inches.

D. Locks on doors to toilets must be of a type that the lock can be released from the outside.

E. Exit doors leading to the outside of a facility with a capacity of 10 or more children must open outward.

F. Exit doors leading to the outside of a facility must be provided with a night latch, dead bolt or security chain, provided such devices open from the inside without the use of a key or tool and are mounted at a

height not to exceed 48 inches above the finished floor.

G. Sleeping room doors for non-mobile children must be at least one and three quarter inches bonded solid core, with a minimum width of 44 inches.

H. Each sleeping room housing non-mobile children must have a 44-inch exit door leading directly to the outside.

[8.369.2.74 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.75 MINIMUM ROOM DIMENSIONS:

A. All habitable rooms in a facility must have a ceiling height of not less than seven feet, six inches.

B. Kitchens, halls, bathrooms and toilet compartments must have a ceiling height of not less than seven feet.

C. All habitable rooms other than a kitchen must not be less than seven feet in any dimension.

D. Any room with a sloped ceiling is subject to review and approval or disapproval by the HCA, based upon Uniform Building Code computation of minimum area.

[8.369.2.75 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.76 WINDOWS:

A. Children's sleeping rooms and activity rooms must have a window area of at least one-tenth the floor area with the minimum allowed total being 10 square feet.

B. Sleeping rooms must provide at least one window for egress or rescue with a minimum net clear opening of 5.7 square feet. The minimum net clear opening for height dimensions is 24 inches. The minimum net clear opening width dimension is 20 inches.

C. Egress and rescue windows must have a finished sill height of not more than 44 inches above the floor. Exception: If the sleeping room has a door leading directly to the outside, an egress/rescue window is not required.

D. Bars, grills, and grates or similar devices may be installed on emergency escape or rescue windows or doors only if equipped with release mechanisms which can be opened from the inside without the use of a key, knowledge or effort.

[8.369.2.76 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.77 CHILDREN'S ROOMS:

A. Each child's room must be an outside room.

B. There must be no through traffic through children's rooms.

C. Single rooms must have at least 80 square feet of floor area. Closet and locker areas are not counted as part of the floor area.

D. Not more than four children over the age of two may occupy a designated bedroom space. Exception: Children's crisis shelters may have dormitory type sleeping areas with no limitation on the number of children as long as minimum square footage requirements are met.

E. Facilities which provide care and services to non-mobile children must have at least 100 square feet of floor area for each non-mobile client.

F. Rooms having more than one child must have at least 60 square feet for each bed; or at least 90 square feet of floor area for each bunk, if double bunks are used. Closet and locker area are not be counted as part of the available floor space.

[8.369.2.77 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.78 FLOORS AND WALLS:

A. Floor material must be readily cleanable and wear resistant.

B. In all areas subject to wet cleaning, floor materials must not be physically degradable by liquid germicidal or cleaning solution.

C. Floors subject to traffic while wet must have a slip resistant surface.

D. Wall finishes must be washable and, in the proximity of plumbing fixtures, must be smooth and moisture resistant.

E. Wall bases in areas subject to wet cleaning must be covered with flooring and tightly sealed baseboards.

F. Floor and wall areas penetrated by pipes, ducts, and conduits must be tightly sealed to minimize the entry of rodents and insects. Joints of structural elements must be similarly sealed.

G. Threshold and expansion joint covers must be flush with the floor surface to facilitate the use of

wheelchairs and carts.
[8.369.2.78 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.79 ACCESS REQUIREMENTS FOR THE DISABLED IN NEW FACILITIES: Accessibility to the disabled must be provided in all new facilities and includes, at a minimum, the following:

A. Main entry into the facility must be level or incorporate a ramp to allow for wheelchair access.

B. Building layout must allow for access to main living area and dining area.

C. At least one bedroom must have a door clearance of 32 inches.

D. At least one toilet/bathing facility must provide a 60-inch diameter turning radius.

E. If ramps are used, the slope of each ramp must provide at least a 12-inch horizontal run for each inch of vertical rise.

F. Ramps exceeding a six-inch rise must be provided with handrails.

G. Additional access requirements may apply depending upon the size and complexity of the facility.

[8.369.2.79 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.80 DISCIPLINE:

A. Discipline used by a facility licensed pursuant to these regulations will be such that it trains the child to develop self-control and orderly conduct in relationship to peers and adults.

B. Discipline shall be clear and understandable to the child, consistent, and explained to the child before and at the time of any disciplinary action.

C. Discipline shall include positive guidance, redirection, and the setting of clear-cut limits which foster the child's own ability to become self-disciplined.

D. Disciplinary practices established by the facility shall be designed to encourage the child to be fair, to respect property, and to assume personal responsibility and responsibility for others.

E. Examples of positive discipline include, but are not limited to, the following:

(1) Brief, supervised separation from the peer group.

(2) Giving additional responsibility for tasks.

(3) Withholding recreational privileges.

(4) Adding study periods, supervised by a responsible staff member.

F. A facility licensed pursuant to these regulations is prohibited from using all cruel, severe, unusual or unnecessary punishments including, but not limited to, the following:

(1) Physical exercises such as running laps or performing push-ups, when used solely as a means of punishment.

(2) Requiring or forcing the child to take an uncomfortable position, such as squatting or bending, or requiring or forcing the child to repeat physical movement when used solely as a means of punishment.

(3) Excessive denial of on-grounds program services or denial of any essential program services solely for disciplinary purposes.

(4) Depriving a child necessary food, water, rest, or opportunity for toileting.

(5) Denial of visiting or communication privileges solely as a means of punishment.

(6) Denial of shelter, clothing, or bedding

(7) Extensive withholding of emotional response or stimulation.

(8) Use of restraints as punishment.

(9) Exclusion of a child from entry to the facility.

(10) Verbal abuse such as shouting, screaming, swearing, name calling or any other verbal activity that is damaging to a child's self-respect.

(11) Any form of discipline or punishment which is intended to frighten or humiliate a child.

(12) Spanking, hitting, shaking, or otherwise engaging in aggressive physical contact with a child.

(13) Seclusion or isolation of a child in a locked room. Exception: Facilities licensed pursuant to these regulations are allowed the use of seclusion or security rooms with policies and procedures for their use and under constant staff supervision during their use.

[8.369.2.80 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

8.369.2.81 SPECIAL REQUIREMENTS FOR SECLUSION ROOMS: Any facility licensed pursuant to these regulations that uses a seclusion room in its program must comply with all of the following:

A. The room must have no less than 80 square feet of floor area.

B. The door must be of substantial construction either one and three-quarter inches, bonded solid core or metal able to withstand unusual stress.

C. The door must be at least 32 inches wide, preferably 36 inches.

D. The door must swing outward to prevent children from barricading themselves in the room.

E. The door must have a fixed wired glass vision panel not to exceed 1,296 square inches and mounted in steel or other approved metal frame.

F. A dual lock system that is simple to operate must be on the door. It must have a quickly operated throw bolt and key lock.

G. The floor must be of substantial construction with a smooth surface so that it presents no danger in terms of materials that peel, splinter, or cause burns.

H. Walls must be of high-impact resistance with nothing protruding from the walls that would allow for climbing by children.

I. The ceiling must be of monolithic construction and unreachable to children.

J. Light fixtures must be security rated and recessed so children cannot break the lens, bulbs, etc.

K. Windows in the room must have security-rated screens with locks that cannot be picked.

L. There must be nothing else in the room, including electrical outlets, switches, holes, hardware, or places to hook things. All heating and air-conditioning registers must be out of reach. There must be no sharp edges in the room such as windowsills, baseboards, or wainscots.

M. Rooms must be approved in writing from the state fire marshal or fire authority having jurisdiction. These records must be maintained by the facility.

N. There must be an observation room adjoining or nearby the seclusion room that permits continuous close observation by staff of a child placed in the seclusion room.

O. A toilet room with a sink must be immediately accessible to the seclusion room.

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8.369.2.82 [RESERVED]

[8.369.2.82 NMAC - N/E, 5/26/2026; N, xx/xx/2026]

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