**Summary of New and Proposed Changes to Regulations Related to Residential Licensing**

***Child, Youth and Family Services Act, 2017***

**Purpose**

The purpose of this document is to seek feedback on new and proposed changes to regulatory requirements related to residential licensing under the *Child, Youth and Family Services Act, 2017* (CYFSA).

On June 1, 2017 the CYFSA received Royal Assent. When proclaimed, it will replace the *Child and Family Services Act* (CFSA).

There are current regulations that exist under the CFSA. Regulatory provisions under the CFSA may become provisions under the CYFSA as they currently appear or with enhancements. In addition, new regulatory provisions may be developed to support the new CYFSA. The focus of this summary is to outline where changes are being proposed to existing regulatory provisions, or where new regulatory provisions are being proposed.

**Proposed Regulatory Changes**

The ministry is taking a multi-year, phased approach to the development and implementation of new and updated regulatory requirements under the CYFSA.

This work supports the ministry’s implementation of *Safe and Caring Places for Children and Youth: Ontario’s Blueprint for Building a New System of Licensed Residential Services,* which was released in July 2017. The Blueprint is a multi-year plan to build a new child-and youth-centered residential service system in Ontario. Working collaboratively across child- and youth-serving sectors, the ministry is making fundamental changes so that services are more responsive to the unique needs of children and youth in residential settings, to improve the quality of their everyday experience and to better support their health, safety, and well-being.

Regulation 70 under the CFSA currently includes provisions related to residential licensing in the following areas:

1. Licences
2. Board and Hearings
3. Miscellaneous
4. Management Practices
5. Admission
6. Programming
7. Medical and Dental Care
8. Discipline, Punishment and Isolation
9. Written Communications, Records and Reports
10. Emergency Procedures
11. Staffing
12. Licensing Documentation
13. Accommodation
14. Fire Safety and Health
15. Foster Care

Sections below will summarize the proposed changes to the existing provisions and any new proposed provisions related to these areas.

In addition, new regulatory provisions are being proposed to be developed in the following areas:

1. Prohibition – Past Offences
2. Minister’s Directives
3. Licence and Records to be Delivered

Many of these proposed changes have been informed by feedback that the government has heard from youth with lived experience in child and youth licensed residential settings and stakeholders from sectors that deliver residential services. The proposed regulations support the implementation of the Blueprint for reform, including enhancing the quality of care provided in these settings.

These proposed changes would come into effect on a date to be determined.

1. **Licences**

Current provisions related to licences are in sections 63 – 66 in Regulation 70 under the CFSA.

The proposed changes related to licences are administrative in nature, with the exception of the subsections related to provisional licences and adoption licensing.

* Provisional licences have been removed from the CYFSA and references to provisional licences in the regulations will be removed throughout.
* Adoption licensing is now a separate part of the CYFSA. Separate regulations will be proposed related to adoption licensing and posted separately.

The following chart summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 in this section, with the exception of provisions related to provisional licences and adoption licensing, would be proposed to move into regulations under the CYFSA with no major changes.

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| **Current Requirement** | **Proposed Enhancement** |
| 63. For the purposes of subsection 65(11), the following Regions are designated:1. The Northern Region, being the territorial districts of Algoma, Cochrane, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy River, Sudbury, Thunder Bay, Timiskaming, The Regional Municipality of Sudbury and The District Municipality of Muskoka.
2. The Central Region, being the counties of Dufferin and Simcoe, the City of Toronto and the regional municipalities of Halton, York and Peel.
3. The Southwestern Region, being the counties of Brant, Bruce, Elgin, Essex, Grey, Huron, Kent, Lambton, Middlesex, Oxford, Perth and Wellington and the regional municipalities of Haldimand-Norfolk, Niagara, Hamilton-Wentworth and Waterloo.
4. The Southeastern Region, being the counties of Frontenac, Hastings, Lanark, Lennox and Addington, Northumberland, Peterborough, Prince Edward Renfrew and Victoria, the County of Haliburton, the united counties of Leeds and Grenville, Stormont, Dundas and Glengarry and Prescott and Russell and the regional municipalities of Durham and Ottawa-Carleton.
 | It is proposed that this provision be imported into a regulation under the CYFSA and amended to remove the listing of regions to refer to the Ministry of Children and Youth Services website, since Regions may change over time.  |
| 64. Every person applying for a licence under clause 193(1) (a) of the Act to establish, operate or maintain a residence shall file with a Director evidence that the premises used or to be used as a residence comply with,1. the laws respecting the health of inhabitants of the area in which the premises are located;
2. any rule, regulation, direction or order of the local board of health and any direction or order of the local medical officer of health;
3. any by-law of the municipality in which the premises are located or other law for the protection of persons from fire hazards;
4. any restricted area, standard of housing or building by-law passed by the municipality in which the premises are located pursuant to Part V of the Planning Act or any predecessor thereof;
5. the applicable requirements of the Building Code made under the Building Code Act, 1992; and
6. the applicable requirements of the Fire Code made under the Fire Protection and Prevention Act, 1997.
 | It is proposed that this provision be clarified to expressly state that this information is required at time of renewal of a licence, in addition to at time of application, where appropriate.  |
| **66.** (1) Upon application for a licence or renewal of a licence to establish, operate or maintain a residence or to provide residential care, a Director may inspect or cause to be inspected the residence or any premises where residential care is to be provided by the applicant for the purpose of determining the eligibility of the applicant for the licence or renewal.  1. The Director shall, at the time of issuing a licence or renewal of a licence to operate a residence, include in the licence the maximum number of children or young persons for whom care may be provided by the licensee.
2. A licensee shall not admit to a residence more children and young persons than the maximum number of children and young persons permitted in the licence unless the admission is approved by a Director for a specified period of time.
3. A licensee that is a corporation shall notify a Director in writing within fifteen days of any change in the officers or directors of the corporation.
 | Subsections (2) and (3) will not be imported into the regulation as there are now provisions that cover these requirements in the CYFSA (s.259) and now apply to all licensed residential care.It is proposed that subsection (4) be enhanced to require the additional information such as:* An updated articles of incorporation so that the ministry can verify the changes
* Information on the role of the new director or officer in the corporation, and licensed to provide residential care.
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1. **Board and Hearings**

Current provisions related to Board and Hearings are in sections 67 – 69 in Regulation 70 under the CFSA.

The proposed changes related to Board and Hearings include no longer referencing forms, and removing reference to the Licence Appeal Tribunal procedures, as they no longer reflect current practice.

The following chart (beginning on page 7) summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 in this section would be proposed to move into regulations under the CYFSA with no major changes.

1. **Miscellaneous**

Current provisions related to Miscellaneous are in sections 70 and 71 in Regulation 70 under the CFSA.

The provisions in this section reference the authority of Local Medical Officers of Health related to children’s residences, and informing a coroner when a child or young person in care dies. It is proposed that these provisions be imported from Regulation 70 under the CFSA into regulation under the CYFSA as is, with no major changes.

1. **Management Practices**

Current provisions related to Management Practices are in sections 72 - 79 in Regulation 70 under the CFSA.

These provisions relate to requirements for licensees operating a children’s residence only:

* Appointing an individual to be responsible to the licensee for the operation and management of the residences
* Policies and procedures to be set out by licensees that operate a children’s residence
* Requirements for a daily log to be maintained in a residence
* Immunization of staff
* Orientation of staff to policies and procedures
* Preparation and maintenance of budgets for children’s residences
* Insurance requirements.

Proposed enhancements for children’s residences include requirements for additional policies and procedures, providing clarity on the use of daily logs, and requirements for an annual review of the policies and procedures by staff.

Additionally, new requirements are being proposed for foster care licensees based on the current requirements for children’s residences in the following areas:

* Requirements to establish certain policies and procedures (more detail below)
* Orientation and annual review of policies and procedures by foster parents.

The following chart summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 in this section would be proposed to move into regulations under the CYFSA with no major changes.

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| **Current Requirement** | **Proposed Enhancement** |
| 72. (1) Every licensee who provides residential care is responsible for the operation and management of the residences operated by the licensee, including the program, financial and personnel administration of the residences.  1. A licensee may appoint a person who shall be responsible to the licensee for the day to day operation and management of the residences.
2. Where a licensee or a person appointed under subsection (2) is absent, the powers and duties of the licensee or the person appointed under subsection (2) shall be exercised and performed by such person as the licensee designates.
 | It is proposed that this provision be enhanced to include a requirement that the appointment be in writing.  |
| **73.** (1) Every licensee shall maintain an up to date written statement of policies and procedures with respect to each residence operated by the licensee that sets out,1. the purpose of the residence;
2. the program provided in the residence;
3. procedures relating to the admission and discharge of residents;
4. the planning, monitoring and evaluation of care provided to residents;
5. procedures for the maintenance of case records;
6. methods of maintaining discipline;
7. the health program provided for residents;
8. the methods of maintaining security of the residence;
9. the methods for involving a resident’s parent with the program of the residence;
10. the administrative structure of the residence;
11. staff and supervisory practices to be followed by staff persons in the residence;
12. the conduct and discipline of persons employed in the residence;
13. procedures to be followed in emergencies;
14. the financial administration of the residence;
15. the methods employed to encourage residents to participate in community activities;
16. articles prohibited by the licensee for the purposes of subsection 103 (3) of the Act;
17. procedures governing the expression of concerns or complaints by residents; and
18. procedures governing punishment and isolation methods that may be used in the residence.
19. A copy of the policies and procedures referred to in subsection (1) shall be kept in each residence and shall be accessible to each person employed in the residence.
20. Clause (1) (l) does not apply where the policies and procedures concerning conduct and discipline are included in a collective agreement between the licensee and employees of the licensee.
 | It is proposed that subsection (f) be amended to include a requirement to set out practices governing the use of discipline and de-escalation and the practices that may not be used. It is proposed that additional requirements for policies and procedures be included on: * the manner of informing staff and residents of the rights of children in care under Part II of the Act.
* work done and money earned by the resident inside or outside of the residence
* procedures with respect to contravention of any of the polices or procedures in this provision.
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| N/A | A new requirement is proposed for foster care licensees based on section 73 in Regulation 70, which currently applies only to children’s residences.It is proposed that foster care licensees be required to have policies and procedures on:* the admission and discharge of children to and from the foster home
* closing a foster home, including that the licensee must offer to have an interview with the foster parents regarding the closure of the home
* the manner in which planning for the care provided to children placed in the foster home is carried out and the manner in which the care is monitored and evaluated
* how case records are maintained
* methods of discipline and de-escalation that may be used and may not be used
* methods for involving a child’s parent in the care of the child
* the provision of temporary care to the children receiving residential care in the foster home by a person who is not a foster parent, including on an emergency basis (which may include respite care)
* procedures to follow in emergency situations
* how children who have been placed in the foster home are encouraged to participate in community activities
* the articles prohibited by the licensee for the purposes of subsection 10 (3) of the Act (which refers to removing content of written communication to/from child in care)
* the expression of concerns or complaints by children placed in the foster home, by foster parents or by persons employed by the licensee
* the manner of informing foster parents, persons employed in the foster home and children placed in the foster home of the rights of children under Part II of the Act
* the responsibilities and obligations of foster parents, persons employed by the foster care licensee, and foster parents with respect to the provision of health care to children placed in the foster home, including the administration of prescription drugs, situations that may require hospitalization, medical or surgical treatment or emergency medical care and an annual assessment of the health, vision, dental and hearing condition of the children
* work done and money earned by children placed in the foster home both inside and outside of the foster home
* situations of non-compliance with the policies and procedures under this section.
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| **74.** (1) Every licensee shall ensure that a daily log is maintained in each residence operated by the licensee.  1. Each incident that affects or that in the opinion of the licensee may affect the health, safety or well-being of a staff person in the residence or a resident shall be included in the daily log.
 | It is proposed that this provision be amended to: * add clarity to the purpose of the daily log and the types of information to be included
* add clarity that things that relate to a specific child or young person should be documented in their case record
* add a requirement that the log is to be kept secure but accessible to all staff.
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| **76.** Every licensee shall ensure that each person employed to work in a residence operated by the licensee shall receive an orientation with respect to the policies and procedures of the residence within thirty days of commencement of employment in the residence.   | It is proposed that this provision be imported and enhanced to require an annual review of the policies and procedures by persons employed to work in a residence.It is proposed that a new requirement be added to keep a record of compliance with the requirement for orientation and review, including sign-off by staff once the initial orientation and annual reviews have occurred. |
| N/A | A new requirement is proposed for foster care licensees based on section 76 in Regulation 70, which currently applies only to children’s residences.It is proposed that foster care licensees be required to:* provide orientation to the foster parents and any staff on the policies and procedures
* conduct an annual review of the policies and procedures with foster parents and any staff
* keep a record of compliance with these requirements.
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1. **Admission**

Currently, sections 80-85 of Regulation 70 under the CFSA set out requirements for licensees operating a children’s residence upon admission of a child or young person into their care. These requirements include how and when to provide notification that a child or young person has been admitted into care, the process to undertake to develop a child and young person’s written service agreement, what is to be included in a child or young person’s orientation, general medical examinations of a child or young person, and the determination of any medical treatment or medication needs of a child or young person.

In addition to enhancements to the current requirements for children’s residences, new requirements are being proposed for foster care licensees based on the current requirements for children’s residences on orientation procedures to the foster home upon admission, including orientation of complaints procedures and fire and emergency procedures.

The following chart summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 in this section would be proposed to move into regulations under the CYFSA with no major changes.

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| **Current Requirement** | **Proposed Enhancement** |
| 81. (1) Every licensee shall ensure that a written agreement for the provision of service to a child is entered into with respect to each child that is admitted to a residence operated by the licensee.  1. A written agreement for the provision of service to a child shall be entered into at the time of admission of the child to the residence or as soon as possible in the circumstances.
2. An agreement for the provision of service to a child shall include,
3. the consent and authorization for the licensee to,
4. provide care for the child,
5. obtain emergency medical treatment for the child, and
6. where applicable, inspect and obtain from persons named in the consent, records, reports and information concerning the child;
7. financial arrangements with respect to the provision of care by the licensee for the child; and
8. provision for a review of the agreement at the request of the child, a parent of the child or the society or other person placing the child or the licensee.
9. Every licensee shall ensure that with respect to each agreement for the provision of service to a child that,
10. the society or probation officer who is supervising or otherwise providing services to a child, but who is not the parent of the child;
11. the society or other person placing the child; and
12. the child, where the child is twelve years of age or over,

are consulted and involved in the development of the agreement.  1. Every licensee shall ensure that each agreement for the provision of service to a child entered into by the licensee is explained to the child, where the child is twelve years of age or over, in language that is suitable to the child’s understanding before the agreement is signed by the persons required under subsection (7) to sign the agreement.
2. Where possible the licensee shall after explaining the agreement to the child obtain a signed acknowledgment from the child that the agreement has been explained.
3. An agreement for the provision of service to a child shall be signed by,
4. the licensee;
5. the parent of the child or the society or other person placing the child;
6. a children’s aid society in whose care the child is where the child is in care under subsection 29 (1) or subsection 30 (1) of the Act;
7. the child, where the child is sixteen years of age or over;
8. the child’s nearest relative, where the child is unable to sign and there is no parent; and
9. where the agreement concerns a child who is a party to a temporary care agreement, the child.
10. Clause (7) (b) does not apply where the child is sixteen years of age or over and signs the agreement.
11. Clause (7) (d) does not apply where in the opinion of a physician or psychologist the child is unable to sign the agreement because of a mental or physical handicap.

9.1) Clause (7) (d) does not apply where in the opinion of a registered nurse in the extended class the child is unable to sign the agreement because of a physical handicap.  1. Where,
2. an agreement for the provision of service to a child is developed without the consultation and involvement referred to in subsection (4);
3. a person referred to in subsection (7) does not sign the agreement; or
4. the child does not sign an acknowledgment that the agreement has been explained to the child,

the reasons shall be noted in the resident’s case record.   | It is proposed that subsections (4) and (5) of this provision be amended to remove the exclusion of children under 12 years of age and that language be added related to the consideration of a child’s views and wishes in accordance with their age and maturity, to align with Part II of the CYFSA (which outlines children’s and young person’s rights). It is proposed that subsection (7) (d) be amended to align with the consent provisions under s. 22 of the Act. It is proposed that subsection (9) be amended to include more inclusive language when referring to children with disabilities. It is proposed that subsection (10) be amended to require additional follow-up action, other than making a note in the resident’s case record. |
| 83. Every licensee shall ensure that, upon admission of a child or young person to a residence operated by the licensee, the child or young person receives an orientation to the residence and the program provided in the residence and that the child or young person is informed of the procedures that exist for a resident to express concerns or complaints while a resident.  | It is proposed that this provision be amended to also require that a child or young person be informed of emergency and fire procedures at time of orientation. |
| N/A | A new requirement is proposed for foster care licensees based on section 83 in Regulation 70, which currently applies only to children’s residences.It is proposed that foster care licensees ensure that an orientation is provided to the foster child, including being informed of procedures for expressing concerns or complaints and emergency and fire procedures. |

1. **Programming**

Currently, sections 86-90 in Regulation 70 under the CFSA set out requirements for licensees operating a children’s residence related to plans of care, food and nutrition, clothing, and transfer and discharge of a child or young person in care. These requirements include the process for the development and review of a child or young person’s plan of care, as well as how often the plan of care must be reviewed, consulting with a child or young person’s school board to determine what educational resources they may need, providing a child or young person with well-balanced meals or special foods, providing a child or young person with suitable clothing, and consulting with a child or young person about the reasons for their transfer or discharge from a residential setting.

Proposed enhancements to provisions in this section related to plans of care include modernizing outdated, exclusive, and confusing language, and removing age restrictions for child and young person consultation to align with CYFSA provisions.

Proposed enhancements related to food and nutrition include improving access to quality and appropriate food in licensed residential settings to improve the daily experiences of children in care.

The following chart summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 in this section would be proposed to move into regulations under the CYFSA with no major changes.

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| **Current Requirement** | **Proposed Enhancement** |
| 86. (1) Every licensee shall develop or participate in the development of a written plan of care for each resident admitted to a residence operated by the licensee within thirty days of admission of the resident.  1. A plan of care for a resident shall include,
2. a description of the resident’s needs that is developed with reference to the findings of current or previous assessments of the resident;
3. identification of desired outcomes, based on each resident’s specific strengths and needs;
4. a plan to secure, within specified timeframes, specialized consultation, specialized treatment and supports, or any one or combination of them, identified to promote the desired outcomes for the resident;
5. a statement of the educational program that is developed for the resident in consultation with the school boards in the area in which the residence is located;
6. where applicable, a statement of the ways in which a parent of the resident will be involved in the plan of care including arrangements for contact between the resident and a parent of the resident and the resident’s family;
7. particulars of any specialized service to be provided directly or arranged for by the licensee;
8. particulars of the dates for review of the plan of care;
9. a list of revisions, if any, to the plan of care; and
10. a statement of the anticipated plan for discharge of the resident.
11. The initial plan of care referred to in subsection (1) and particulars of any reviews of the plan of care shall be entered in the resident’s case record.
12. Every licensee shall ensure that, where possible,
13. a parent of the resident or the person who placed the resident;
14. any children’s aid society or probation officer who is supervising or otherwise providing services to a resident, but who is not a parent; and
15. the resident, where the resident is twelve years of age or over,

are consulted and involved with the development of each plan of care for each resident in a residence operated by the licensee. 1. Where the plan of care is developed without the consultation or involvement referred to in subsection (4), the reason for the lack of consultation or involvement shall be noted in the resident’s case record.
2. Every licensee shall ensure that the development of each resident in each residence operated by the licensee in relation to the plan of care developed for the resident is reviewed at least every thirty days during the first six months that the resident is in the residence and at least every six months thereafter.
3. A resident shall be given an opportunity to express his or her views during each review referred to in subsection (6).
4. Every licensee shall ensure that each plan of care with respect to each resident in a residence operated by the licensee is reviewed three months and six months after the resident is admitted to the residence and if requested by any person involved with the development of the plan of care every six months after the initial six month review.
5. A review of the plan of care referred to in subsection (8) shall involve,
6. the resident;
7. a parent of the resident; and
8. any other person who was involved in the development of the plan of care.
9. Where it is not possible to review the plan of care with each person referred to in subsection (8), the reasons for the lack of a review shall be noted in the resident’s case record.
 | It is proposed that subsection (4) be amended to remove “where possible” to align with other provisions related to the development and review of the plan of care. It is proposed that subsection (4) (c), be amended to remove the reference to age 12 and instead require the involvement of the resident and their views being given due weight based on their age and maturity (in accordance with other CYFSA provisions). It is proposed that subsections (5) and (10) be amended to require additional follow-up action, other than making a note in the resident’s case record. |
| 86.1 Where a plan of care developed under section 86 includes a recommendation to obtain specialized consultation, specialized treatment and supports, or any one or combination of them, identified to promote the desired outcomes for the resident and any one of them has not been obtained within the specified timeframe, the reasons shall be noted by the licensee in the resident’s written case record.  | It is proposed that this provision be amended to require additional follow-up action, other than making a note in the resident’s case record. |
| 88. Every licensee shall ensure that with respect to each residence operated by the licensee,1. the residents receive well balanced meals that are nutritionally adequate for their physical growth and development; and
2. where special foods are recommended by a resident’s physician or registered nurse in the extended class, they are provided to the resident.
 | It is proposed that enhancements to food and nutrition provisions be made, including:* Reasonable access to food and kitchen facilities not restricted to meal/snack times unless specific arrangements have been made through a child or youth’s plan of care based on their needs (exceptions would apply to youth justice settings regarding access to kitchen facilities);
* That appropriate food is provided for any special diets observed by residents and for the cultural background of the residents; and
* That food is never restricted as a punitive measure.
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| 89. (1) Every licensee shall ensure that each resident in a residence operated by the licensee has a supply of his or her own clothing of a suitable quality and size in relation to the resident’s age and activities and local weather conditions.  1. Where clothing for an individual resident is limited because of the resident’s need, the reason shall be noted in the resident’s case record.
 | It is proposed that subsection (2) be amended to require additional follow-up action, other than making a note in the resident’s case record. |

1. **Medical and Dental Care**

Currently, sections 91-94 in Regulation 70 under the CFSA set out requirements for licensees operating a children’s residence related to medical and dental care.

It is proposed that these provisions be modernized to replace outdated, exclusive, and confusing language, remove age restrictions for child consultation in accordance with other requirements in CYFSA, now to be undertaken based on the child’s age and maturity, and reflect and reinforce the rights of children in care as per Part II of the CYFSA.

1. **Discipline, Punishment and Isolation**

Currently, sections 95-97 in Regulation 70 under the CFSA set out requirements for licensees that operate a children’s residence to never treat, or allow another person to treat, a child or young person in a way that humiliates them, undermines their self-respect, or deprives them of their basic needs. In addition, these requirements include the need for licensees to maintain policies and procedures related to discipline, isolation, and punishment measures.

The proposed provisions in this section will be modernized to replace outdated, exclusive, and confusing language. This includes removing wording related to “punishment” and “isolation”.

In addition to enhancements to the current requirements for children’s residences, new requirements are being proposed for foster care licensees based on the current requirements for children’s residences in the following areas:

* The development and review of policies and procedures related to discipline and de-escalation measures
* The development of policy and procedure on the contravention of licensees policies and procedures that is reviewed by foster parents at orientation and annually thereafter

The following chart summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 in this section would be proposed to move into regulations under the CYFSA with no major changes.

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| **Current Requirement** | **Proposed Enhancement** |
| 95. (1) Every licensee shall ensure that the written policies and procedures in each residence operated by the licensee with respect to discipline, punishment and any isolation measures as referred to in clauses 73 (1) (f) and (r) set out the practices that may be used by staff persons of the licensee and the practices that shall not be used by staff persons of the licensee.1. The policies and procedures with respect to discipline, punishment and isolation measures shall be reviewed with each staff person of each residence when the staff person first receives orientation to the residence and at least annually thereafter.
2. The licensee shall ensure that the staff persons and residents in each residence operated by the licensee are informed of the type of behaviour of a resident that will result in the use of disciplinary measures.
3. The licensee shall ensure that no staff person in a residence operated by the licensee carries out any disciplinary procedure with respect to a resident unless the staff person has completed a training program with respect to the methods of discipline approved by the licensee.
4. The licensee shall ensure that where a punishment is administered to a resident or other intervention that is intended to reduce or eliminate a behaviour of a resident is used with a resident the fact is recorded in the resident’s case record by the person employing the punishment or intervention and that the licensee or a person designated by the licensee is informed of the application of the punishment or intervention.
 | It is proposed that subsection (3) be amended from “will” to “may” result in the use of disciplinary measures.It is proposed that this provision be amended to replace the term “isolation” with “de-escalation”. |
| N/A | A new requirement is proposed for foster care licensees based on section 95 (1) and (2) in Regulation 70, which currently applies only to children’s residences.It is proposed that foster care licensees be required to:* Have written policies and procedures with respect to discipline and de-escalation that include the practices that may be used and may not be used by.
* Review these policies with foster parents at orientation and annually thereafter.
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| N/A | A new requirement is proposed for foster care licensees based on section 97 in Regulation 70, which currently applies only to children’s residences.It is proposed that foster care licensees be required to have policies and procedures that cover when the policies of the licensee have been contravened and that these are reviewed by foster parents at orientation and annually thereafter. |

1. **Written Communications, Records and Reports**

Currently, sections 98-102 in Regulation 70 under the CFSA set out requirements for licensees that operate a children’s residence related to documenting when a written communication to/from a resident is opened or removed, and requirements for record keeping and reports, including reporting requirements for serious occurrences. Overall the enhancements for the provisions related to licensees operating a children’s residence are administrative in nature.

In addition to enhancements to the current requirements for children’s residences, a new requirement is being proposed for foster care licensees based on the current requirements for children’s residences (section 97 in Regulation 70 under the CFSA) to document the reasons for opening or removing articles of written communication to/from a foster child.

The following chart summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 in this section would be proposed to move into regulations under the CYFSA with no major changes.

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| **Current Requirement** | **Proposed Enhancement** |
| N/A | A new requirement is proposed for foster care licensees based on section 97 in Regulation 70, which currently applies only to children’s residences.It is proposed that foster care licensees be required to document the reasons for opening or removing articles of written communication to/from a foster child. |
| 100. Every licensee shall maintain a register of residents in each residence operated by the licensee that includes,1. the name, sex, birth date and wardship status of each resident;
2. the name and address of the parents of each resident or other person placing the resident;
3. the date of admission of the resident; and
4. where the resident is discharged from the residence, the date of discharge of the resident and the name of the person or agency to whom the resident is discharged.
 | It is proposed that this provision be amended to modernize language regarding ‘wardship status’ to be consistent with the CYFSA.  |

1. **Emergency Procedures**

Currently, section 103 in Regulation 70 of the CFSA sets out requirements for all staff persons in a children’s residence to be instructed in the emergency procedures of the residence when first employed, and every year thereafter. It is proposed that no major changes be made to these provisions at this time.

1. **Staffing**

Current provisions related to staffing for children’s residences are in section 104 in Regulation 70 under the CFSA. It is proposed that no major changes be made to these provisions at this time.

1. **Licensing Documentation**

Currently, section 105 in Regulation 70 under the CFSA sets out the documentation required when applying for a licence to operate a children’s residence. It is proposed that no major changes be made to these provisions at this time.

1. **Accommodation**

Currently, sections 106-107 in Regulation 70 set out requirements for licensees operating a children’s residence related to the physical grounds of the residence, including a child or young person’s bedroom, bedding, mattress, bathroom, and outdoor play area. These requirements also include the storage of medications and records of children or young people and the servicing of chimneys and fuel-fired appliances.

The proposed enhancements to the provisions for children’s residences include those related to windows, bedding and temperature, storage of medication, and alignment with Fire Code requirements.

In addition to enhancements to the current requirements for children’s residences, new requirements are being proposed for foster care licensees based on the current requirements for children’s residences related to containment and access to medication (that is not self-administered) and records.

The following chart summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 would be proposed to move into regulations under the CYFSA with no major changes.

|  |  |
| --- | --- |
| **Current Requirement** | **Proposed New Requirement/Enhancement** |
| 106. Every licensee shall ensure that each residence operated by the licensee meets the following requirements:* + 1. No room without a window is used as a bedroom.
		2. No basement area or room is used for sleeping accommodation unless such use is approved by a Director.
		3. Each bedroom has a minimum area of five square metres of floor space for each resident over the age of eighteen months and under the age of sixteen years.
		4. Each bedroom has a minimum of seven square metres of floor space for each resident sixteen years of age or over.
		5. A residence that accommodates residents under the age of eighteen months has a minimum area of 3.25 square metres of floor space for each resident and at least 7.5 square metres of floor space in every bedroom where residents under the age of eighteen months are accommodated.
		6. Each resident is provided with his or her own bed and clean mattress suitable for the resident’s age and size, together with bedding that is appropriate according to the weather and climate.
		7. No resident over six years of age shares a bedroom with another resident of the opposite sex unless the sharing is approved by a Director.
		8. The residence has a minimum of one wash basin with hot and cold water and one flush toilet for every five residents or fewer and one bath or shower with hot and cold water for every eight residents or fewer and, where there is more than one toilet in any one room, each toilet has a separate compartment.
		9. The water temperature in a washroom or bathroom in a residence does not exceed 49 degrees Celsius.
		10. The residence has an outdoor play space that is equivalent in area to at least nine square metres for each resident based on the maximum number of children permitted in the licence except where an alternative arrangement is approved by the Director.
		11. The outdoor play space is maintained in a safe and sanitary condition.
		12. The temperature of the residence is maintained at not less than 17 degrees Celsius.
 | It is proposed that this provision be enhanced in the following ways:* Paragraph 1: add requirement that windows in bedrooms must allow in natural light
* Paragraph 6: include requirement that each resident is provided with clean bedding.
* Paragraph 9: include minimum hot-water temperature (40 degrees Celsius).
* Paragraph 12: increase the minimum temperature in licensed settings from 17 degrees to 20 degrees Celsius.

Further analysis is underway to determine which of these provisions will apply to youth justice facilities. |
| 107. Every licensee shall ensure that in each residence operated by the licensee,1. drugs and records are kept in locked containers and that only persons authorized by the licensee have access to the drugs and records;
2. each fuel-fired appliance in the residence is serviced at least once a year by a person who is the holder of a certificate issued under section 14 of the Energy Act; and
3. the chimneys in the residence are cleaned as often as is necessary to keep them in a safe operating condition and a record is kept of the servicing and cleaning.
 | It is proposed that provisions be enhanced in (a) that medication, other than medication that is self-administered by a child, is stored in a locked container that is inaccessible by children. It is proposed that subsections (b) and (c) be amended to align with the requirements of the Fire Code.  |
| N/A | A new requirement is proposed for foster care licensees based on section 107 in Regulation 70, which currently applies only to children’s residences.It is proposed that foster care licensees be required to keep drugs and records in a locked container and only authorized persons have access. |
| N/A | It is proposed that a new requirement be added related to the safety and cleanliness of the physical plant, grounds, materials, and furnishings of licensed residential settings. This proposed requirement would apply to both children’s residences and foster homes.It is proposed that the provision would include:* A requirement that the physical site, grounds, materials, equipment and furnishings in the children’s residence and foster home must be kept safe and clean and in a good state of repair, and maintained in a manner that supports the safety and well-being of children.
* A separate requirement to have written policies and procedures on safety and cleanliness of the physical plant, grounds, materials, and furnishings.
 |

1. **Fire Safety and Health**

Currently, sections 108-109 in Regulation 70 under the CFSA set out requirements for licensees operating a children’s residence related to fire safety and health procedures. These requirements include those related to fire alarms and fire extinguishers in the residence, as well as ensuring that there are a certain amount of exits and fire-resistant partitions in the residence, where appropriate.

The proposed enhancements to the provisions for children’s residences include alignment with requirements in the Fire Code and instruction on fire alarm procedures.

In addition to enhancements to the current requirements for children’s residences, new requirements are being proposed for foster care licensees based on the current requirements for children’s residences related to fire alarms and fire extinguishers.

The following chart summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 would be proposed to move into regulations under the CYFSA with no major changes.

|  |  |
| --- | --- |
| **Current Requirement** | **Proposed New Requirement/Enhancement** |
| 108. Every licensee shall ensure that each residence operated by the licensee has,1. at least one acceptable exit from the first storey of the residence;
2. at least one acceptable exit or two means of egress from the third storey of the residence where the third storey provides sleeping accommodation;
3. one or more single station smoke alarms listed by Underwriters’ Laboratories of Canada located in each bedroom or sleeping area and in each storey at interior stairways;
4. a fire-resistant partition between any fuel-fired central heating appliance and the remainder of the building where there is a bedroom on the same floor as the central heating fuel-fired appliance; and
5. a 2A 10B.C.-rated fire extinguisher for the kitchen that is listed by Underwriters’ Laboratories of Canada.
 | It is proposed that this provision be amended to align with the current language and requirements in the Fire Code.  |
| N/A | A new requirement is proposed for foster care licensees based on section 108 in Regulation 70, which currently applies only to children’s residences.It is proposed that a regulatory provision be added based on an existing standard term and condition for foster care licensees that they be required to ensure that all foster care homes are compliant with requirements of the Fire Code. |
| 109. (1) Every licensee shall ensure that in each residence operated by the licensee,1. all staff persons and residents are instructed in a manner suitable for their understanding in the procedures to be followed when a fire alarm is activated;
2. the procedures referred to in clause (a) are,
3. posted in conspicuous places in the residence, and
4. (ii) practised at least once a month and a record is kept of each practice;
5. the fire alarm is used to initiate fire drills;
6. flammable liquids and paint supplies that are kept in the residence are stored in lockable containers;
7. sprinkler heads and fire detector heads in the residence are not painted;
8. all staff persons are trained in the proper use of fire extinguishing equipment and a record is kept of each training session using such equipment;
9. inspection of the premises of the residence, including equipment in the kitchen and laundry is made each night to ensure that there is no danger of fire and that all doors to stairwells, fire doors and smoke barrier doors are closed; and
10. a record of each inspection referred to in clause (g) is kept in the daily log of the residence.
11. Every licensee shall ensure that in each residence operated by the licensee,
12. all poisonous and hazardous substances are kept in lockable containers;
13. harmful substances and objects not essential to the operation of the residence are not allowed in the residence;
14. firearms are not allowed on the premises of the residence; and
15. a supply of drinking water is provided that is, in the opinion of the local medical officer of health, sanitary and adequate for the requirements of residents.
 | It is proposed that this provision be amended to include all staff persons, and children, upon admission, to be instructed in a manner suitable for their understanding in the procedures to be followed when a fire alarm is activated.It is proposed that subsection (2) (c) be amended to include firearms carried by peace officers to be allowed on the premises in response to emergency situations.  |
| N/A | A new requirement is proposed for foster care licensees based on section 109 in Regulation 70, which currently applies only to children’s residences.It is proposed that requirements be added for foster care licensees respecting:* Fire safety procedures, including fire drills.
* Drinking water, fire alarms, poisons, and hazardous and harmful substances.
 |
| N/A | A new requirement is being proposed that would require all licensees (children’s residences and foster care) to develop a fire safety plan, for each premises that operates under the licence. The plan would have to be approved by a Chief Fire Official and include: * the roles and responsibilities of each member of the home;
* written documentation from a Chief Fire Official confirming the premises is compliant with the Fire Code;
* a written procedure with respect to evacuation in the event of fire;
* a requirement that there is a designated place of shelter in case of evacuation in an emergency;
* a requirement to keep a copy of the fire safety plan on the premises; and
* that the fire safety plan shall be reviewed as often as necessary, but at least every 12 months.
 |

1. **Foster Care**

Currently, sections 110-121 in Regulation 70 under the CFSA set out requirements for the provision of residential care in parent-model foster homes. These requirements include those related to preliminary assessment of the foster child, foster plans of care, social histories of each child, placement, procedures related to the management of foster homes used by the licensee, approval of foster homes, sleeping accommodation, written foster care service agreements, and supervision of foster homes.

The proposed enhancements to the provisions for foster care include updating language, removing age restrictions to align with CYFSA, documentation of follow-up in a child’s case file, and bedroom window requirements.

In addition to enhancements to the current requirements for foster care, new requirements are being proposed for children’s residences based on the current requirements for foster care in the following areas:

* Preliminary assessment of the needs of the child is undertaken in advance of being accepted to a residential placement
* At the time of admission, a written record of any needs of the child or young person that cannot be met by placement in the residence must be documented, including how these needs will be met.

The following chart summarizes the proposed enhancements to these provisions. All other provisions currently in Regulation 70 would be proposed to move into regulations under the CYFSA with no major changes.

|  |  |
| --- | --- |
| **Current Requirement** | **Proposed Enhancement** |
| **111.** (1) Every licensee shall ensure that before a child is accepted by the licensee to receive foster care in a home that provides foster care for or on behalf of the licensee that,1. a preliminary assessment is made of the child that sets out,
2. the immediate needs of the child,
3. where it can be ascertained, whether the child is likely to be returned to his or her home,
4. available identifying information concerning the child,
5. the child’s legal status, and
6. any other information that is, in the opinion of the licensee, relevant to the immediate care of the child; and
7. the immediate objectives of the provision of foster care for the child have been determined, taking into account the developmental, emotional, social, medical and educational needs of the child.
8. Every placing agency shall complete an assessment of each child that it places in foster care within thirty days of the child being placed in a foster home.
9. An assessment referred to in subsection (2) shall set out,
10. the special needs of the child;
11. the child’s legal status;
12. available identifying information concerning the child;
13. the child’s family history; and
14. the circumstances necessitating out of home care for the child.
15. The licensee, within 30 days after placement of a child in a foster home, shall,
16. review the assessment prepared under subsection (2); and
17. participate in the development and finalization of a foster plan of care with,
18. the placing agency, where the placing agency is not the licensee,
19. the foster parents,
20. the child, where the child is 12 years of age or over, and
21. the child’s parents, where appropriate.
22. The licensee shall ensure that the foster plan of care,
23. takes into account all available information on the child as set out in any existing reports related to specialized consultation, specialized treatment and supports;
24. identifies desired outcomes based on each child’s specific strengths and needs; and
25. includes a plan to secure, within specified timeframes, the specialized consultation, specialized treatment and supports, or any one or combination of them, identified to promote the desired outcomes for the child.
26. For the purposes of clause (5) (a), where the placing agency is not the licensee, the placing agency and the licensee shall ensure that any reports respecting the child are shared between them upon receipt or as soon as practicable.
27. Every placing agency shall initiate a social history of each child that it places in foster care within 60 days after the child is placed and shall update it annually thereafter.
28. The social history of a child shall include,
29. identifying information;
30. admission information;
31. family history;
32. birth history;
33. developmental history;
34. health history;
35. academic history;
36. history of court involvement;
37. experiences of separation;
38. personality and behaviour; and
39. aptitudes and abilities.
40. If the placing agency is not the licensee, the placing agency shall share the social history that it has prepared with the licensee.
41. A licensee shall use the social history of a child as a resource in adapting the foster plan of care for the child.
 | It is proposed that (4) (b) (iii) be amended to remove the exclusion of children under 12 years of age and add information related to the child’s views and wishes being taken into account and given due weight in accordance with their age and maturity, aligned with Part II of the CYFSA.  |
| N/A | A new requirement is being proposed for licensees operating a children’s residence based on section 111(1) in Regulation 70, which currently applies only to foster care licensees. It is proposed that licensees operating a children’s residence be required to conduct a preliminary assessment for each child prior to admission in the residence.  |
| N/A  | A new requirement is proposed for licensees operating a children’s residence based on section 113 in Regulation 70, which currently applies only to foster care licensees.It is proposed that licensees operating a children’s residence be required to ensure that a written record of:* Any needs of the child or young person that cannot be met by placement in the residence
* How the needs of the child or young person will be met.
 |
| **115.** (1) Every licensee shall review and if necessary amend the foster plan of care for each child it places in foster care.  1. The review referred to in subsection (1) shall be carried out with the involvement of the licensee, the placing agency where the placing agency is not the licensee, the child where the child is 12 years of age or over, the foster parents and, where appropriate, the child’s parents,
2. three months after placement, six months after placement and at least every six months thereafter; or
3. earlier than the timeframes referenced in clause (a) if,
4. there is a material change in circumstances which necessitates a review of the plan; or
5. there is a change in the child’s placement.
6. The date of each review and any changes made in the foster plan of care shall be documented by the licensee in the child’s file.
7. A supervisor shall examine the child’s file at the time of each review to ensure that the required recording and documentation have been carried out and shall sign and date the record.
8. Where a foster care plan is reviewed without the involvement of one of the persons referred to in subsection (2), the reason shall be noted in the child’s file.
9. For the purposes of subsection (1), where the placing agency is not the licensee the placing agency and the licensee shall ensure that any reports respecting the child are shared between them upon receipt or as soon as practicable.
10. If a foster plan of care includes a recommendation to obtain specialized consultation, specialized treatment and supports for the child, or any one or combination of them, and any one of them has not been obtained within the specified timeframe, the reasons shall be noted in the child’s file by the licensee.
 | It is proposed that (2) be amended to remove the exclusion of children under 12 years of age and add information related to the child’s views and wishes being taken into account and given due weight in accordance with their age and maturity, aligned with Part II of the CYFSA (which refers to children’s and young person’s rights). It is proposed that subsection (5) be amended to require additional follow-up action, other than making a note in the child’s file. |
| **118.** (1) No licensee shall approve a foster home to receive a child for foster care until the licensee or a person designated by the licensee,1. conducts at least one planned interview with a foster parent applicant in the applicant’s home;
2. where more than one adult who lives in the home will be providing foster care in the home, conducts an interview individually and together with each adult;
3. in addition to the adults referred to in clause (b), meets with other family members of the applicant that live with the applicant and all other persons living in the home;
4. receives from a single applicant the names of at least three persons in the community to provide references and receives from joint applicants the names of at least five persons in the community to provide references;
5. contacts the references referred to in clause (d) by letter, telephone or in person and makes a record of their comments regarding the suitability of the applicant to provide foster care;
6. obtains a written statement from a physician, an individual approved by the local medical officer of health or a registered nurse in the extended class regarding the general health and specific illnesses or disabilities of the foster parent applicant and family members and whether or not they might interfere with the provision of foster care; and
7. visits the applicant’s home to determine whether or not it is suitable for placement of a foster child.
8. A person who visits the applicant’s home to determine whether or not it is suitable as a foster home shall,
9. conduct an assessment of,
10. the common living areas of the applicant’s home,
11. the proposed sleeping area for a foster child,
12. the grounds surrounding the home, and
13. the play space used by the children in the home; and
14. take note of the recreational areas within walking distance of the foster home.
15. A visit referred to in subsection (2) shall be recorded in the applicant’s file.
 | It is proposed that (1) be amended to say ‘foster parent applicant’ instead of “foster home” to provide clarity that this provision relates to an individual and not the foster home.It is proposed that (d) be amended to exclude references by applicants when they are the licensee, as well as remove the restriction that references should be from the community. It is proposed that subsection (3) also be amended to include details of the visit, including location, time and date in the record of visit.  |
| **119.** (1) No licensee shall approve a home as a foster home unless the licensee is satisfied that the regular sleeping accommodation for the foster child or children meets the following requirements:1. No room without a window is used as a bedroom.
2. No bedroom is in a building detached from the foster home, an unfinished attic or unfinished basement or a stairway hall.
3. Each foster child has a bed and clean mattress suitable for the age of the foster child together with bedding that is appropriate according to the weather and climate.
4. No foster child shares a bed or sleeping room with an adult couple or adult of the opposite sex.
5. No foster child over six years of age shares a bedroom with another child of the opposite sex.
6. Paragraph 4 of subsection (1) does not apply where a child is ill or an infant and the needs of the child require that the child be in the same room as an adult.
7. Subsection (1) does not apply where a Director approves an arrangement other than an arrangement required under that subsection.
 | It is proposed that paragraph 1 be amended to clarify that windows must be to the outside.  |
| **122.** (1) The following approved services are exempt from the application of the Act up to and including March 31, 1995:1. London Psychiatric Hospital Child and Adolescent Unit.
2. Whitby Psychiatric Hospital Child and Adolescent Unit.  O. Reg. 509/94, s. 1.

(2) The following approved agencies are exempt from the application of the Act, except section 3 and Part I, up to and including March 31, 1995:1. 1. Royal Ottawa Hospital Regional Children’s Centre.
2. 2. Sudbury Algoma Hospital Regional Children’s Centre.  O. Reg. 509/94, s. 1.
 | It is proposed that this provision be removed as the services listed within it are no longer in existence or are no longer under the authority of the Ministry of Health and Long-Term Care.  |

1. **Prohibition – Past Offences**

This is a new regulation-making authority under the CYFSA that would prohibit someone from operating a residence or other place where residential care is provided under the authority of a licence if they have been convicted of specific offences for which a pardon has not been granted.

It is proposed that if an individual is convicted of the following offences under the Criminal Code (Canada) for which a pardon has not been granted, they would be prohibited from operating a residence or other place where residential care is provided under the authority of a licence:

* Section 151 (sexual interference).
* Section 153 (sexual exploitation)
* Section 153.1 (sexual exploitation of person with disability)
* Section 163.1 (making child pornography)
* Section 215 (duty of persons to provide necessaries).
* Sections 229, 230, 231, 235 (murder)
* Section 233 (infanticide)
* Section 239 (attempt to commit murder)
* Section 273 (aggravated sexual assault)
* Sections 279.011, 279.02 (trafficking of a person under the age of eighteen years, material benefit - trafficking)
1. **Minister’s Directives**

Under the CYFSA, there is new authority for the Minister to issue binding directives to residential licensees in prescribed areas.

A new regulatory provision proposes to establish authority for the Minister to issue directives for residential licensees, in specified areas such as the placement of children in a children’s residence or other place where residential care is provided, or the process for applying for a licence under Part IX of the CYFSA.

1. **Licence and Records to be Delivered**

Section 203(1) of the CFSA currently states that “A licensee whose licence is revoked or who ceases to carry on the activity for which the licence is required shall deliver up to the Minister the licence and all the records in the licensee’s possession or control that relate to the children to whom services were being provided.”

This provision is not in the CYFSA. However, regulation-making authority was provided to the Minister to create regulations specifying where records are to be delivered when a licensee ceases to operate.

This is a proposed new requirement that aims to maintain current status regarding delivery of records as per section 203(1) in the CFSA.

The following provision is proposed to be included in regulation under the CYFSA, to maintain current requirements under the CFSA:

* If a licence is revoked or renewal of it refused, or if a licensee ceases to operate a children’s residence or to provide residential care, the licensee shall deliver all the records in the licensee’s possession or control that relate to the children to whom services were being provided to the Minister.

**Conclusion**

The Ministry of Children and Youth Services is working with our cross-sector partners to transform and modernize child and youth licensed residential services in the province as part of the government’s Blueprint for reform. This phase of proposed regulatory changes is a key initial step in building a system of residential services.