

Mont.Admin.R. 37.98.101

Rule 01. RESERVED

Mont.Admin.R. 37.98.102

37.98.102. DEFINITIONS

The following definitions apply to this Sub-Chapter:

(1) “Administrative office” means the office where business operations, public relations and management procedures take place.

(2) “Administrator” means the person designated on the facility application or by written notice to the department as the person responsible for the daily operation of the facility and for the daily resident care provided in the facility.

(3) “Case plan” means an individualized plan of services to be provided to each youth, based on his or her identified treatment needs, designed to help him or her reach treatment goals.

(4) “Child abuse or neglect” is that as defined at 41-3-102, MCA.

(5) “CPR” means cardiopulmonary resuscitation.

(6) “Contraband” means any item possessed by a youth or found on the program’s premises that is illegal by law or expressly prohibited by the program. Such items include, but are not limited to, weapons, illegal or unauthorized drugs, drug paraphernalia, intoxicants and flammable items.

(7) “Debrief” means to interview youth and staff members following the use of physical restraint, or following any other incident or occurrence in which it is necessary or helpful for the program to obtain information from youth and staff members.

**(8) “Department” means the Montana department of public health and human services.**

(9) “Direct care staff” means program personnel who directly participate in the care, supervision and guidance of youth in an outdoor behavioral program, including the field director, senior field staff and field staff.

(10) “Expedition” means an excursion undertaken for specific treatment purposes that takes the youth away from the field office.

(11) “Expedition camp” means a nonpermanent campsite. Youth and staff may move from one expedition camp to another when on expedition.

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(12) "Field office" means the office where all coordination of expedition operations takes place.

(13) "Global positioning system (GPS) receiver" means a receiver which receives signals from a network of satellites known as the global positioning system, or GPS, which identifies the receiver's location by:

(a) latitude;

(b) longitude; and

(c) altitude to within a few hundred feet.

(14) "High adventure activity" means an outdoor activity provided to youth for the purposes of behavior management or treatment and which requires specially trained staff and special safety precautions to reduce the possibility of an accident or injury.

(15) "Illegal contraband" means items or substances the possession of which by a youth constitute a violation of state or federal law.

(16) "Lead clinical staff member (LCS)" is a licensed clinical psychologist, a licensed clinical social worker or a licensed professional counselor. The LCS is responsible for the supervision and overall provision of treatment services to youth in the program.

(17) "Leave no trace principles" means wilderness and land use ethics designed to minimize the impact of visitors to back country areas.

(18) "Licensed health care professional" is defined at 50-5-101, MCA.

(19) "Mechanical restraint" is any object or apparatus, device or contraption applied or affixed to the youth to limit movement, and includes, but is not limited to:

(a) handcuffs;

(b) leg irons;

(c) soft restraints such as cloth ties for limbs or waist, safety vests, hand mitts and protection nets;

(d) restraint chairs; or

(e) straight jackets.

(20) "Near miss" means an unplanned, unforeseen or potentially dangerous situation where safety was compromised

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but that did not result in injury.

(21) “Nonviolent crisis intervention strategies” mean preventive measures that are used to manage the behavior of the youth and include the use of de-escalation techniques, physical assists and physical restraints.

(22) “Physical assist” is a behavioral control technique by which a staff member physically aids or supports youth who are not physically resisting.

(23) “Physical restraint” means any physical method of restricting a person’s freedom of movement that prevents the person from independent and purposeful functioning. This activity includes seclusion, controlling physical activity, or restricting normal access to the body.

(24) “Placing agency” means any corporation, partnership, association, firm, agency, institution or person who places or arranges for placement of any youth with a program.

(25) “Practitioner” is defined at 50-5-101, MCA.

(26) “Program” means outdoor behavioral program as defined at 50-5-101(40), MCA.

(27) “Residential outdoor services” means services provided by a program to youth at designated stationary sites including permanent buildings where the youth reside.

(28) “Seclusion” is a behavioral control technique involving locked isolation. The term does not include time outs.

(29) “Serious incident” means:

(a) a suicide attempt;

(b) the excessive use of physical force by staff;

(c) assault of a youth by residents or staff, including sexual assault;

(d) injury to a youth which requires medical attention;

(e) the death of a youth; or

(f) known or suspected abuse or neglect of a youth by staff or youth.

(30) “Solo experience” means separation of a youth from the group as part of the outdoor therapeutic process, not including a time out.

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(31) "Time out" means imposed separation of a youth from any group activity or contact as a means of behavior management.

(32) "Wilderness first responder" means a licensed first responder with the medical training course for outdoor professionals as offered by the national association of search and rescue.

(33) "Youth" means a youth 13 through 18 years of age, who may be admitted to or is a participant in an outdoor behavioral program.

**Mont.Admin.R. T. 37, Ch. 98, Subch. 2, RESERVED**

**Sub-Chapter 2. RESERVED**

**Mont.Admin.R. 37.98.301**

**37.98.301. LICENSE APPLICATION PROCESS**

(1) Application for a license accompanied by the required fee must be made to the Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59620-2953.

(2) The application for a license must be made on forms provided by the department and shall include full and complete information as to the identity of:

- (a) each officer and director of the corporation, if organized as a corporation;
- (b) each general partner if organized as a partnership or limited liability partnership;
- (c) name of the administrator and administrator's qualifications;
- (d) name, address and phone number of the management company if applicable;
- (e) physical location address, mailing address and phone number of the program; and
- (f) maximum number of beds in the program.

(3) The application for a license must also include the program management policies such as:

- (a) the program statement and description of services;
- (b) policies for decision making, supervision of staff and consultation;

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- (c) program strategies, policies and procedures;
  - (d) case review policy;
  - (e) admission and discharge policies and procedures;
  - (f) policies and procedures for support services;
  - (g) youth's grievance procedure;
  - (h) transportation policies and procedures;
  - (i) policies for personnel and financial records; and
  - (j) any other policies required by these rules.
- (4) The application for a license must also include the placement agreement intended to be used by the program.
- (5) Every program shall have a distinct identification or name and shall notify the department in writing within 30 days prior to changing such identification or name.
- (6) Each program shall promptly report to the department any plans to relocate the program at least 30 days prior to such a move.
- (7) The current program license must be publicly displayed at the administrative office.
- (8) In the event of a change of ownership, the new owners shall provide the department the following:
- (a) a completed application with fee;
  - (b) a copy of the fire inspection conducted within the past year;
  - (c) policies and procedures as prescribed in (3), or if applicable, a written statement indicating that the same policies and procedures will be used;
  - (d) a copy of the placement agreement as outlined in (4); and
  - (e) documentation of compliance with ARM 37.98.401.

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Mont.Admin.R. 37.98.302

Rule 02. RESERVED

Mont.Admin.R. 37.98.303

37.98.303. LICENSE RESTRICTIONS

- (1) A license is not subject to sale, assignment or other transfer, voluntary or involuntary.
- (2) A license is valid only for the premises for which the original license was issued.
- (3) The license remains the property of the department and shall be returned to the department upon closing or transfer of ownership. The address for returning the license is Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59620-2953.

**Mont.Admin.R. 37.98.304**

**37.98.304. LICENSE DENIAL, SUSPENSION, RESTRICTION, REVOCATION, OR REDUCTION TO PROVISIONAL STATUS AND HEARING PROCEDURES**

- (1) The department, after written notice to the applicant, may deny an application for licensure upon finding that the applicant has not met the minimum requirements for licensure established by this Sub-Chapter, or upon finding that the applicant has made any misrepresentation to the department, either negligently or intentionally, regarding any aspect of its operations or facility.
- (2) The department, after written notice to a licensed program, may suspend, restrict, revoke or reduce to a provisional status a license upon finding that the program is not in substantial compliance with the minimum requirements for licensure established by this Sub-Chapter. Suspension or revocation may be immediate if:
  - (a) the department is denied access to the program, to any youth placed in the program by the department, or to any program records;
  - (b) the program has made any misrepresentation to the department, either negligently or intentionally, regarding any aspect of its operations or facility;
  - (c) the program fails to report known or suspected child abuse or neglect as required by 41-3-201, MCA;
  - (d) the initial investigation of a report of child abuse or neglect results in reasonable cause to suspect that a youth in the program may be in danger of harm;

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(e) the program or any member of its staff has been named as the perpetrator in a substantiated report of abuse or neglect;

(f) the program or any member of its staff has violated a provision of this Sub-Chapter that resulted in child abuse or neglect; or

(g) it is determined on the basis of a department or law enforcement investigation that the program or any member of its staff may pose a risk or threat to the health or welfare of a youth placed in the program.

**Mont.Admin.R. 37.98.305 to 37.98.307**

**Rules 05 to 07. RESERVED**

**Mont.Admin.R. 37.98.308**

**37.98.308. ADMINISTRATIVE POLICIES AND PROCEDURES**

(1) The program shall have established policies and organizational plans clearly defining legal responsibility, administrative authority and responsibility for services to program participants and the community.

(2) The program shall have written policies for personnel and financial records. The policies shall be furnished to the department with the initial license application.

(3) The program shall have written position descriptions for all employees which include a description of duties, responsibilities, limitations of authority, and principal measures of accountability and performances.

(4) The program shall develop policies and procedures for screening, hiring and assessing staff which include practices that assist the employer in identifying employees that may pose a risk or threat to the health, safety or welfare of any resident and provide written documentation of findings and the outcome in the employee's file.

**Mont.Admin.R. 37.98.309 to 37.98.311**

**Rules 09 to 11. RESERVED**

**Mont.Admin.R. 37.98.312**

**37.98.312. QUALITY ASSESSMENT**

(1) The program shall implement and maintain an active quality assessment program for improving policies, procedures and services. At a minimum, the quality assessment program must include procedures for:

(a) conducting youth satisfaction surveys at least annually;

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(b) maintaining records on the occurrence, duration and frequency of physical assists and physical restraints used; and

(c) reviewing, on an ongoing basis, serious incident reports, near misses, grievances, complaints, medication errors, and the use of physical restraints with special attention given to identifying patterns and making necessary changes in how services are provided.

(2) The program shall prepare and maintain on file an annual report of improvements made as a result of the quality assessment activities specified in this rule.

**Mont.Admin.R. 37.98.313 and 37.98.314**

**Rules 13 and 14. RESERVED**

**Mont.Admin.R. 37.98.315**

**37.98.315. CONFIDENTIALITY OF RECORDS AND INFORMATION**

(1) All records maintained by a program and all personal information made available to a program pertaining to an individual youth must be kept confidential, and are not available to any person, agency or organization except as specified in (2) through (4).

(2) All records pertaining to an individual youth are available upon request to:

(a) the youth's parent, guardian, legal custodian, or attorney absent specific and compelling reasons for refusing such records;

(b) a court with continuing jurisdiction over the placement of the youth or any court of competent jurisdiction issuing an order for such records;

(c) a mature youth to whom the records pertain, absent specific and compelling reasons for refusing specific records; or

(d) an adult who was formerly the youth in care to whom the records pertain, absent specific and compelling reasons for refusing such records.

(3) All records pertaining to individual youth placed by the department are available at any time to the department or its authorized representatives.

(4) Records pertaining to individual youth not placed by or in the custody of the department must be available to the department for the purposes of licensing, relicensing or investigating the program.

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**Mont.Admin.R. 37.98.316**

**37.98.316. REPORTS**

(1) The program shall submit to the department, upon its request, any reports required by federal or state law or regulation.

(2) The program shall report any of the following changes in writing to the Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59620-2953 prior to the effective date of:

(a) a change of administrator;

(b) a change in location;

(c) a change in the name of the program; or

(d) any significant change in organization, administration, purposes, programs, or services.

(3) The program shall report any violation of the requirements of this Sub-Chapter to the department within two business days.

(4) Runaways must be reported immediately to law enforcement and within the next working day to the agency or person who placed the youth.

(5) Disasters or emergencies which require closure of a residence unit shall be reported to the department within the next working day.

**Mont.Admin.R. 37.98.317 and 37.98.318**

**Rules 17 and 18. RESERVED**

**Mont.Admin.R. 37.98.319**

**37.98.319. CHILD ABUSE OR NEGLECT AND SERIOUS INCIDENTS**

(1) Each program staff member and employee shall read and sign a statement clearly defining child abuse and neglect and explaining the staff member's responsibility to report all known or suspected incidents of child abuse or neglect.

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(2) Any program staff member or employee who knows or has reasonable cause to suspect that an incident of child abuse or neglect has occurred shall report within 24 hours the known or suspected incident to the program administrator, or a person designated by the program administrator, and to the state child abuse hotline (1 (866) 820-5437) as required by 41-3-201, MCA. The program must fully cooperate with any investigation conducted as a result of the report.

(3) Each program shall have written procedures for handling any suspected incident of child abuse or neglect including:

(a) a procedure for ensuring that the staff member involved does not continue to provide direct care until an investigation is completed; and

(b) a procedure for taking appropriate disciplinary measures against any staff member involved in an incident of child abuse or neglect, including, but not limited to:

(i) termination of employment;

(ii) retraining of the staff member; or

(iii) any other appropriate action by the program geared towards the prevention of future incidents of child abuse or neglect.

(4) Any serious incident involving a youth must be reported within the next working day to the person or agency which placed the youth and to the Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59620-2953.

(5) The report must be in writing, and must include:

(a) the date and time of the incident;

(b) the youth and any staff member(s) involved;

(c) the nature of the incident; and

(d) a description of the incident and the circumstances surrounding it.

(6) A copy of the report must be maintained at the program.

**Mont.Admin.R. 37.98.401**

**37.98.401. ADMINISTRATOR QUALIFICATIONS**

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(1) Each program shall employ an administrator. The administrator is responsible for operation of the program at all times and shall ensure 24-hour supervision of the residents. The program administrator is the person ultimately responsible for ensuring that the program is in compliance with applicable licensing rules and ensuring that staff are familiar with and comply with all program policies and procedures.

(2) The administrator shall meet, at a minimum, the following qualifications:

(a) a bachelors degree in a relevant discipline;

(b) two years experience working with youth and two years experience in staff supervision and administration;

(c) completion of initial staff training; and

(d) have evidence of at least 16 contact hours of annual continuing education relevant to the individual's duties and responsibilities as administrator of the program.

(3) A staff member must be designated to oversee the operation of the facility during the administrator's absence. The administrator or designee shall be in charge, on call and physically available on a daily basis as needed, and shall ensure there are sufficient, qualified staff so that the care, well being, health and safety needs of the residents are met at all times.

(a) A designee shall:

(i) be age 18 or older; and

(ii) have demonstrated competencies required to assure protection of the safety and physical, mental and emotional health of the residents.

**Mont.Admin.R. 37.98.402**

**Rule 02. RESERVED**

**Mont.Admin.R. 37.98.403**

**37.98.403. STAFF**

(1) A program shall have written personnel policies covering the following items:

(a) job qualifications;

(b) job descriptions;

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(c) supervisory structure;

(d) fringe benefits;

(e) insurance;

(f) hours of work; and

(g) performance evaluations.

(2) A program shall maintain records for each employee regarding the following:

(a) application for employment;

(b) reports from references;

(c) record of orientation and ongoing training;

(d) reports of health examinations;

(e) periodic performance evaluations;

(f) copy of current licenses and certifications; and

(g) any other employee records required by this Sub-Chapter.

(3) All program staff shall meet the following general qualifications:

(a) understand the purpose of the program and be willing to carry out its policies and programs;

(b) be physically, mentally, and emotionally competent to care for youth; and

(c) be in good general health.

(4) New employees must receive orientation and training in areas relevant to the employee's duties and responsibilities, including:

(a) an overview of the facility's policies and procedures manual in areas relevant to the employee's job

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responsibilities;

(b) a review of the employee's job description;

(c) services provided by the facility; and

(d) youth rights as discussed in ARM 37.98.702.

(5) A "personal statement of health for licensure form" provided by the department must be completed for each person subject to the requirements of this rule. The form must be submitted to the department with the initial application for licensure and annually thereafter. The "personal statement of health for licensure form" is available at Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59620-2953.

(6) The program shall employ, train and supervise an adequate number of staff necessary to ensure proper care, treatment and safety of the residents.

(7) No staff member, intern, volunteer or other person having direct contact with the youth in the program shall conduct themselves in a manner which poses any potential threat to the health, safety or well being of the youth in care.

(8) Any staff member, intern, volunteer or other person having direct contact with the youth whose behavior or health status endangers the residents may not be allowed at the program.

(9) The personal references of all staff must be verified and documented in writing.

(10) Program volunteers and interns shall:

(a) be provided orientation and initial training procedures. The training must include orientation on all program policies and procedures;

(b) follow written policies and procedures developed by the program defining the responsibilities, limitations and supervision of volunteers and interns;

(c) not be included in the staff to youth ratios; and

(d) be under the direct and constant supervision of program staff.

**Mont.Admin.R. 37.98.404**

**37.98.404. PROGRAM PROFESSIONAL STAFF AND QUALIFICATIONS**

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(1) Each program shall employ or contract with professionals to serve as program professional staff members. Program professional staff members must have knowledge of the physical and emotional demands of the program and provide professional services including, but not limited to:

- (a) admission evaluations;
- (b) case plan development;
- (c) assessments;
- (d) treatment; and
- (e) rehabilitation.

(2) At a minimum, each program professional staff must consist of:

- (a) a licensed health care professional;
- (b) a licensed mental health professional who may be either a licensed clinical psychologist, a licensed clinical social worker or a licensed clinical professional counselor; and
- (c) a licensed addiction counselor if the program is treating youth for chemical dependency.

**Mont.Admin.R. 37.98.405**

**37.98.405. PROGRAM EXPEDITION FIELD DIRECTOR QUALIFICATIONS**

(1) The staff of each program expedition must include a field director.

(2) The field director shall be primarily responsible for:

- (a) the quality of the field activities;
- (b) coordinating field operations;
- (c) supervising direct care staff;
- (d) managing the field office;

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- (e) ensuring compliance with applicable licensing rules; and
  - (f) ensuring that staff members are familiar with all program policies and procedures.
- (3) The field director shall meet, at a minimum, the following qualifications:
- (a) a bachelors degree in a relevant discipline and a minimum of 30 semester or 45 quarter hours of education in recreational therapy or in a related field, or one year outdoor youth program field experience;
  - (b) a minimum of 40 24-hour field days of program experience or equivalent experience in outdoor programs documented in the individual's personnel file;
  - (c) be capable of preparing reports required by this Sub-Chapter, documenting interactions of youth and staff, and ensuring compliance with applicable licensing rules;
  - (d) hold a first response license or equivalent and have additional wilderness first responder training; and
  - (e) completion of an initial staff training.
- (4) If qualified, the administrator may serve as field director.
- (5) Each program shall have a senior field staff member working directly with each group of program youths. Each senior field staff member shall meet the following minimum qualifications:
- (a) be at least 22 years of age;
  - (b) have an associate degree or high school diploma with 30 semesters or 45 quarter hours education and training or comparable experience and training in a field related to recreation and adventure activities;
  - (c) have six months, or 130 24-hour field days of outdoor youth program field experience or comparable experience serving youth with behavior problems that endanger the youth's health, interpersonal relationships, or educational functioning. Such experience must be documented in the individual's personnel file;
  - (d) hold a wilderness first responder license or equivalent and have additional wilderness first responder training; and
  - (e) have completed initial staff training.
- (6) Field staff working directly with the youth shall meet, at a minimum, the following qualifications:
- (a) be at least 22 years of age;

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- (b) have a high school diploma or equivalent;
- (c) have completed initial staff training; and
- (d) be certified in CPR annually and currently certified in first aid.

Mont.Admin.R. 37.98.406

**37.98.406. PROGRAM STAFF BACKGROUND CHECKS**

(1) The administrator, staff, volunteers and interns must have a state criminal, a child protective services/adult protective services and if applicable, a tribal criminal and child protective services background check conducted.

(a) The department may not grant approval or licensure nor allow a license if the administrator, staff member, volunteer or intern has been convicted by a court of competent jurisdiction of a felony or misdemeanor involving:

(i) child abuse or neglect;

(ii) spousal abuse;

(iii) a crime against a child or children (including child pornography); or

(iv) a crime involving violence, including rape, sexual assault or homicide, but not including other physical assault or battery.

(b) The department shall not grant approval or licensure nor allow a license if any administrator, staff member, volunteer or intern has, within the last five years, been convicted by a court of competent jurisdiction of a felony or misdemeanor involving:

(i) physical assault;

(ii) battery; or

(iii) a felony drug related offense.

(2) The administrator, staff member, volunteer or intern who is charged with a crime involving children or physical or sexual violence against any person or any felony drug related offense and awaiting trial may not provide care or be present in the facility pending the outcome of the criminal proceeding.

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(3) No administrator, staff member, volunteer or intern shall have been named as a perpetrator:

(a) in a substantiated report of child abuse or neglect;

(b) in a report substantiating abuse or neglect of a person protected under the Montana Elder and Developmentally Disabled Abuse Prevention Act; or

(c) of a person protected by a similar law in another jurisdiction.

(4) No administrator, staff member, volunteer or intern shall be identified through a department licensing investigation to have negligently or intentionally violated a licensing regulation which results in child abuse or neglect.

(5) The program is responsible for assuring that the persons covered by this Sub-Chapter have met these requirements before providing care.

(6) No staff member, aide, volunteer or other person having direct contact with the youth in the facility shall pose any potential threat to the health, safety and well being of the youth in care.

**Mont.Admin.R. 37.98.407 to 37.98.410**

**Rules 07 to 10. RESERVED**

**Mont.Admin.R. 37.98.411**

**37.98.411. STAFF TRAINING**

(1) A program shall have written policies, procedures and training curriculum regarding minimum requirements for initial and ongoing training.

(2) All direct care staff shall complete a minimum of 40 hours of initial staff training.

(3) Initial staff training must consist of the following minimum requirements:

(a) the program's policy, procedures, organization and services;

(b) mandatory child abuse reporting laws;

(c) crisis intervention methodologies;

(d) fire safety, including emergency evacuation routes;

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(e) confidentiality;

(f) first aid and CPR;

(g) suicide prevention;

(h) report writing including the development and maintenance of logs and journals; and

(i) therapeutic de-escalation of crisis situations and passive physical restraint techniques to ensure the protection and safety of the youth and staff. Training must include the use of physical and non-physical methods of managing youth and must be updated, at least every 12 months, to ensure that necessary skills are maintained.

(4) Initial staff training shall be completed and documented before the staff person may count in the youth/staff ratio as specified in ARM 37.98.415 and 37.98.1805.

(5) The program shall provide ongoing training for staff to maintain certifications and improve proficiency in knowledge and skills. Training must be a minimum of 20 hours annually.

(6) All staff training must be documented and kept on file for each administrator, staff, intern and volunteer.

**Mont.Admin.R. 37.98.412 to 37.98.414**

**Rules 12 to 14. RESERVED**

**Mont.Admin.R. 37.98.415**

**37.98.415. YOUTH/STAFF RATIOS**

(1) A program shall maintain the following minimum staff ratios:

(a) Youth/staff ratio must be no more than 4:1 each day for a 15-hour period beginning at, or between, 7 a.m. and 7:30 a.m., (or beginning at, or between, some other reasonable morning half hour which is approximately 15 hours prior to the bedtime of the youth), when youth are in care.

(b) Youth/staff ratio for residential outdoor services may not be more than 8:1 each night for a nine-hour period beginning no earlier than 15 hours from the time daytime staffing of 4:1 starts. Staff must be awake during the nine-hour period.

(2) A program must use the actual number of youth in care each day to compute the youth/staff ratio.

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(3) The youth/staff ratio requirement for the expedition components of the program is contained in ARM 37.98.1805.

**Mont.Admin.R. T. 37, Ch. 98, Subchs. 5 and 6, RESERVED**

**Sub-Chapters 5 and 6. RESERVED**

**Mont.Admin.R. 37.98.701**

**37.98.701. YOUTH CASE RECORDS**

(1) A program shall maintain a written case record for each youth which must include administrative, treatment and educational data from the time of the youth's admission until the time the youth leaves the program. A youth's case record must include the following:

- (a) the name, sex and birth date of the youth;
- (b) the name, address and telephone number of the parent(s) or guardian of the youth;
- (c) date of admission and placing agency;
- (d) if the youth was not living with his or her parents prior to admission, the name, address, telephone number and relationship to the youth of the person with whom the youth was living;
- (e) all documents related to the referral of the youth to the program as provided by the placing agency;
- (f) documentation of the current custody and legal guardianship as provided by the placing agency;
- (g) the youth's court status, if applicable;
- (h) consent forms signed by the parents or guardian prior to placement that allow the program to authorize all necessary medical care, routine tests, immunization and emergency medical or surgical treatment;
- (i) health records including medical history and vaccination record as provided by the placing agency;
- (j) education records and reports;
- (k) treatment or clinical records and reports;
- (l) records of special or serious incidents;

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- (m) case plans and related material;
- (n) social summary current to date of placement;
- (o) report stating reason for placement;
- (p) quarterly progress reports on the youth's reaction to the placement and services provided;
- (q) date of discharge, reason for discharge, and the name, telephone number and address of the person or agency to whom the youth was discharged; and
- (r) all other youth records and documentation as required by these rules.

**Mont.Admin.R. 37.98.702**

**37.98.702. YOUTH RIGHTS**

(1) A program shall develop and maintain a youth's rights policy that supports and protects the fundamental human, civil, constitutional and statutory rights of all youth. These rights shall include, but are not limited to the following:

- (a) each youth has the right to be free from abuse, neglect and unnecessary physical or chemical restraint;
- (b) if the program operates during the school year, every youth has the right to educational services in accordance with Montana state law;
- (c) the dignity of every youth and family must be recognized and respected in the delivery of services;
- (d) each youth has the right to receive care according to individual need;
- (e) service must be provided within the most appropriate setting;
- (f) each youth has the right to personal privacy, and the program must allow privacy for each youth when not contrary to treatment and safety of the youth;
- (g) contact with the family will be maintained by mail and phone, if accessible, as long as this contact is not contrary to the treatment and safety needs of the youth; and
- (h) each youth has the right to have his or her opinions and recommendations considered and documented in the development of his or her case plan.

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Mont.Admin.R. 37.98.703 and 37.98.704

Rules 03 and 04. RESERVED

Mont.Admin.R. 37.98.705

37.98.705. PHYSICAL EXAMINATION

(1) All physical examinations must be completed by an appropriate licensed practitioner. A youth must have a physical examination:

- (a) within 30 days prior to admission into the program;
- (b) at least annually after entering the program; and
- (c) at any time when circumstances indicate that an updated examination would be appropriate.

(2) The result of the physical examination must be recorded on a standard form provided by the program. The form shall clearly identify to the examining practitioner the type and extent of physical activity which the youth will be asked to participate in.

(3) The physical examination must include: green and blue

- (a) a complete blood count (CBC), a urinalysis and an electrolyte screen, if deemed necessary by the examining practitioner;
- (b) a pregnancy test for each female if deemed necessary by the examining practitioner;
- (c) a physical assessment to determine the youth's fitness for the climate and temperature in which the youth will be participating and the youth's age, weight and physical condition;
- (d) a determination of whether detoxification is indicated for the youth prior to entrance into the program;
- (e) identification of any physical problems which would limit the youth's physical activity;
- (f) identification of any special care which the youth will need;
- (g) a record of immunizations as defined in ARM 37.114.701 through 37.114.716. In addition the immunization record must include:

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(i) evidence of hepatitis A series, if deemed necessary by a practitioner;

(ii) evidence of hepatitis B series, if deemed necessary by a practitioner;

(h) a history of communicable diseases and serious illnesses or operations the youth has had;

(i) identification of any known drug reactions and allergies;

(j) identification of medications being taken during the six months prior to the examination, and a description of any possible special needs due to the use of medication in an outdoor, high impact environment;

(k) identification of any necessary special dietary requirements; and

(l) identification of any hereditary health issues that may affect the youth.

(4) If a youth is in a risk group for circulatory or auto-immune syndrome disorder, written approval must be included on the physical examination form by the practitioner for participation in the program.

(5) The practitioner conducting the examination must give written approval on the examination form for participation in the program, taking into consideration the factors specified in this rule and any other factors the practitioner deems to be relevant to the youth's participation in the program. The practitioner conducting the physical examination must give separate written approval on the examination form for the youth's participation in the following situations or activities:

(a) strenuous exercise;

(b) exposure to cold and hot temperatures; and

(c) activities that may occur in altitudes over 5000 feet.

(6) A program may not admit a youth who is not approved by the examining practitioner for admission to the program. The program shall comply with all restrictions or limitations placed on a youth by the examining practitioner.

(7) The original physical examination form must be maintained at the field office and a copy must be carried by staff in a waterproof container when the youth is away from the field office. The physical examination form must be maintained in a manner that assures the confidentiality of all medical and identification information.

**Mont.Admin.R. 37.98.706**

blue and green

**37.98.706. ASSESSMENTS**

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(1) A program shall have written admission and assessment policies, procedures and forms.

(2) Prior to enrollment in the program, an admission assessment must be done for each youth by a program professional staff member. This admission assessment must include a review of the youth's social history, psychological history, medical history and physical examination. **The assessment must review the following topics:**

**(a) allergies;**

(b) medications;

(c) a record of immunizations as defined in ARM 37.114.701, 37.114.702, 37.114.704, 37.114.705, 37.114.708, 37.114.709, 37.114.710, 37.114.715 and 37.114.716;

(d) hospitalizations;

(e) medical diagnoses;

(f) medical problems that run in the family;

(g) pregnancy status and any complications;

**(h) special dietary needs;**

(i) illnesses;

(j) injuries;

(k) dental problems;

(l) mental health issues;

(m) emotional problems;

(n) ongoing medical care needs;

(o) history of aggressive or violent behavior;

(p) substance abuse history;

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- (q) sexual history or behavior patterns that may place the youth or other youth at risk;
- (r) known or suspected suicide or self-injury attempts or gestures;
- (s) emotional history indicating a predisposition for self-injury or suicide; and
- (t) history of fire setting.

**(3) The program shall establish a minimum body mass index. Body mass for each youth must be assessed to assure that the youth has sufficient body mass to fully participate in the strenuous elements of the program.**

(4) A program professional staff member shall determine at the time of admission if the youth is currently appropriate for placement in the program. The youth may not be admitted if the youth:

- (a) is determined to be an unsuitable candidate because of a limiting medical factor;
- (b) requires secure psychiatric attention;
- (c) requires secure detention; or
- (d) is an imminent risk of being a danger to self or others.

**(5) A subsequent assessment must be done before the youth leaves for the expedition portion of the program. The subsequent assessment must include the following evaluations:**

(a) Each youth must be observed by an appropriate program professional staff member trained to identify noticeable evidence of any illness, communicable disease or signs of abuse.

**(b) Youths that have special medications or treatment procedures, dietetic restrictions, known allergic reactions or any known physical limitation must meet with senior field staff and an appropriate program professional staff member to define special needs and services required while on expedition.** On the basis of this evaluation, the program professional staff member shall decide whether the youth will be allowed to enter the expedition portion of the program. A written summary of this evaluation, including special needs of the youth and services required of the expedition staff, must be placed in the youth's file before the youth enters the field.

(c) For a youth with a history of mental illness, a psychological assessment must be prepared by an appropriate program professional staff member prior to the youth's entrance into the expedition portion of the program. On the basis of this psychological assessment, the program professional staff member shall decide whether the youth will be allowed to enter the expedition portion of the program. A written summary of this assessment, including special needs of the youth and services required of the expedition staff, must be placed in the youth's file before the youth enters the field.

**(d) The senior field staff member assigned to the outdoor experience shall interview the youth prior to entrance**

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into outdoor activities to determine the youth's suitability for planned outdoor activities. On the basis of this evaluation, the senior field staff member shall decide whether the youth will be allowed to enter the expedition portion of the program. A written summary of this evaluation must be placed in the youth's file before the youth enters the field.

Mont.Admin.R. 37.98.707

37.98.707. DEVELOPMENT AND CONTENT OF THE CASE PLAN

(1) A case plan for each youth must be developed within 14 days of admission and prior to entering into the expedition portion of the program. The case plan team must include at minimum the appropriate members of the program professional staff and the field director. Members of the case plan team shall develop and sign the case plan. The youth's parent, guardian and/or the placing agency staff, along with the youth, if appropriate, must be encouraged to participate in the development of the case plan

(2) The case plan must address, at a minimum, the following:

- (a) the youth's physical and medical needs;
- (b) behavior management issues;
- (c) mental health treatment methods;
- (d) addictive disorder treatment methods;
- (e) education plans;
- (f) measurable goals and objectives;
- (g) the responsibilities of the youth and staff for meeting the goals and objectives;
- (h) the minimum number of hours per week the youth will receive individual and/or group counseling;
- (i) discharge and aftercare planning, to include referrals to other agencies;
- (j) type and frequency of therapeutic intervention activities;
- (k) interventions to be used should the youth refuse to participate in any prescribed activity; and
- (l) interventions to be used should the youth become a danger to self or others.

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(3) The case plan must be reviewed and updated by the case plan team every 90 days or whenever there is a significant change in the youth's condition. The youth's parent, guardian, and/or the placing agency must be informed that case plan reviews are available for inspection.

(4) Copies of the case plan must be provided to the senior field staff and placed in the youth's file immediately upon completion or update.

(5) Copies of the case plan must be sent to the placing agency, and to the parents or legal guardians within 10 days of completion or update.

**Mont.Admin.R. 37.98.708 to 37.98.714**

**Rules 08 to 14. RESERVED**

**Mont.Admin.R. 37.98.715**

**37.98.715. DISCHARGE SUMMARY**

(1) Within 10 business days of the discharge of a youth from the program, a discharge report must be completed, including:

(a) a written summary of services provided, the youth's participation and progress, results of evaluations, condition of the youth, briefings and debriefings, compliance with program policies, procedures and recommendations; and

(b) the signature of the staff member who prepared the report and the date of preparation.

(2) The original discharge report must be maintained by the program in the youth's file, and a copy shall be provided to the placing agency and to the parents or legal guardians within 10 days of completion.

**Mont.Admin.R. 37.98.801**

**37.98.801. BEHAVIOR MANAGEMENT POLICIES**

(1) A program shall have and follow written behavior management policies and procedures including a description of the model, program or techniques to be used with youth. The program shall have policies addressing discipline, therapeutic de-escalation of crisis situations, nonviolent crisis intervention, and time out. Behavior management must be based on an individual assessment of each youth's needs, stage of development and behavior. It must be designed with the goal of teaching youth to manage their own behavior and be based on the concept of providing effective treatment by the least restrictive means.

(2) The program shall document that a copy of the written policies has been provided and explained to each youth. A

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copy of the policies must also be provided to parents, guardians and referral sources upon request.

**(3) The behavior management policies must prohibit:** blue and green

(a) the use of physical force, mechanical, chemical, or physical restraint as discipline;

(b) pain compliance, aversive conditioning, and use of pressure point techniques;

**(c) the placing of anything in or on a youth's mouth;**

**(d) cruel or excessive physical exercise, prolonged positions or work assignments that produce unreasonable discomfort;**

(e) verbal abuse, ridicule, humiliation, profanity and other forms of degradation directed at a youth or a youth's family;

(f) locked confinement or seclusion;

**(g) withholding of necessary food, water, clothing, shelter, bedding, rest, medical care or toilet use;**

(h) denial of visits or communication with the youth's family as punishment or discipline. Visits or communication with the youth's family may be limited as specified in the program's design and planned activities, in accordance with the youth's service plan, or by court order;

(i) isolation as punishment, except as provided for in the time out provisions of ARM 37.98.803; and

**(j) any other form of punishment or discipline which subjects a youth to pain, humiliation, or unnecessary isolation or restraint.**

(4) If program policies allow for disciplining a group of youth for actions of one youth, the organization's policies and procedures for behavior management or discipline must clearly prescribe the circumstances and safeguards under which disciplining the group is allowed.

**Mont.Admin.R. 37.98.802**

**37.98.802. USE OF NONVIOLENT CRISIS INTERVENTION STRATEGIES**

(1) The program shall have written policies and procedures governing the appropriate use of nonviolent crisis intervention strategies, including:

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(a) the use of de-escalation techniques;

(b) physical assists; and

(c) physical restraints.

(2) The nonviolent crisis intervention strategies, policies and procedures must comply with the following:

(a) Crisis prevention and verbal and non-verbal de-escalation techniques are the preferred methods and must be used first to manage behavior. All staff working directly with youth must be trained in de-escalation techniques. This training must be documented in each staff member's personnel file.

(b) Appropriate use of physical assists occurs when staff members physically aid, support or redirect youth who are not physically resisting. Physical assists include staff leading youth along the trail or moving youth to his or her campsite by gently pulling on a backpack strap, guiding him or her by the hand or elbow, or placing a hand on the youth's back. If a youth resists reasonable staff direction, staff must assess whether the use of physical restraint is warranted based on the program's written physical restraint policy.

(c) Physical restraint must be used to safely control a youth until he or she can regain control of his or her own behavior. Physical restraint must only be used in the following circumstances:

(i) when the youth has failed to respond to de-escalation techniques and/or physical assists;

(ii) when necessary to prevent harm to the youth or others, or to prevent the substantial destruction of property; or

(iii) when a youth's behavior puts himself/herself or others at substantial risk of harm and he/she must be forcibly moved.

(d) Physical restraint must be used only until the youth has regained control and must not exceed 15 consecutive minutes. If the youth remains a danger to self or others after 15 minutes, the record must include written documentation of attempts made to release the youth from the restraint and the reasons that continuation of restraint is necessary.

(e) Physical restraint may be used only by employees documented to have been specifically trained in nonviolent crisis intervention techniques.

(f) Program policies must prohibit the application of a nonviolent physical restraint if a youth has a documented physical condition that would contraindicate its use, unless a health care professional has previously and specifically authorized its use in writing. Documentation must be maintained in the youth's record.

(g) Program policies must require documentation of:

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- (i) the behavior which required the physical restraint;
  - (ii) the specific attempts to de-escalate the situation before using physical restraint;
  - (iii) the length of time the physical restraint was applied including documentation of the time started and completed;
  - (iv) the identity of the specific staff member(s) involved in administering the physical restraint;
  - (v) the type of physical restraint used;
  - (vi) any injuries to the youth resulting from the physical restraint; and
  - (vii) the debriefing completed with the staff and youth involved in the physical restraint.
- (h) Program policies must require that whenever a physical restraint has been used on a youth more than two times in one week, there is a review by lead clinical staff members to determine the suitability of the youth remaining in the program, whether modification to the youth's plan are warranted, or whether staff need additional training in alternative therapeutic behavior management techniques. The program shall take appropriate action as a result of the review.

(3) The program shall train staff in the therapeutic de-escalation of crisis situations provided through a nationally recognized training system to ensure the protection and safety of the youth and staff. The training must include the use of physical and non-physical methods of managing youth, and must be updated at least annually to ensure the maintenance of necessary skills.

**Mont.Admin.R. 37.98.803**

**37.98.803. TIME OUT**

- (1) Time out must only be used when a youth's behavior is disruptive to the youth's ability to learn, to participate appropriately, or to function appropriately with other youth or the activity and when other de-escalation techniques have failed. Restraint, seclusion, or confinement may not be used as part of time out procedures.
- (2) A staff member must be designated to be responsible for visually observing the youth at random intervals at least every 15 minutes.
- (3) For each time out, a report must be written and placed in the client's file in sufficient detail to provide a clear understanding of the occurrence or behavior which resulted in the youth being placed in time out, and staff's attempts to help the youth avoid time out.
- (4) Youth placed in time out must be re-introduced to the group in a sensitive and non-punitive manner as soon as

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control is regained.

(5) If there are more than 10 one hour time outs for a youth in a 24-hour period, or the separation lasts for 24 hours, appropriate lead clinical staff members must conduct a review to determine the suitability of the youth remaining in the program, whether modifications to the youth's plan are warranted, and whether staff need additional training in alternative therapeutic behavior management techniques. The results of the review must be documented and placed in the youth's file. The program shall take appropriate action as a result of the review.

**Mont.Admin.R. 37.98.804 and 37.98.805**

**Rules 04 and 05. RESERVED**

**Mont.Admin.R. 37.98.806**

**37.98.806. ANIMALS AND PETS**

(1) A program may make use of domesticated animals or pets as part of a youth's treatment plan, provided that animals and pets are vaccinated, free from disease, not a danger to the youth, and cared for in a safe and clean manner. The program shall have documentation of current vaccinations, including rabies, as appropriate for all animals and pets.

**Mont.Admin.R. 37.98.807 to 37.98.810**

**Rules 07 to 10. RESERVED**

**Mont.Admin.R. 37.98.811**

**37.98.811. POTENTIAL WEAPONS**

(1) A program shall have and follow written policy and procedures on management of weapons and potential weapons.

(2) Firearms must not be allowed in programs.

(3) Program staff shall inventory knives, hatchets, other edged tools or any item which might pose a danger to youth and complete a daily count of these items against the inventory. Program staff shall supervise youth possession and use of knives, hatchets, other edged tools or any item which might pose a danger to self or others.

(4) Large animal repellants must be stored under lock and key when not being carried by program staff, and be safeguarded from youth. Youth shall only use large animal repellants under the supervision of staff.

**Mont.Admin.R. 37.98.812**

**37.98.812. CONTRABAND**

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- (1) A program shall define prohibited contraband in a written policy.
- (2) Law enforcement must be notified as appropriate when illegal contraband is discovered.
- (3) All contraband that is not illegal must be returned to the youth's parent or guardian, or must be destroyed in accordance with the program's contraband policy. When contraband is disposed of, the disposal must be witnessed by at least two other staff members and must be documented in the youth's case record.

**Mont.Admin.R. 37.98.813**

**37.98.813. PROGRAM REQUIREMENTS: SEARCHES**

- (1) The provisions of this rule apply to all searches by program staff of youth and their personal property, including searches of personal correspondence.
- (2) Youth may not be subjected to a search of the youth's person, personal property or correspondence unless there is reasonable cause to believe that the search will result in discovery of contraband, or unless there is reasonable cause to believe that the search is necessary to alleviate a threat of harm to the youth, other youths, or staff. The facts and circumstances supporting a determination of reasonable cause for the search must be documented in the youth's file.
- (3) Any correspondence search must be conducted in the presence of the youth.
- (4) The program shall adopt policies relating to searches, including pat down searches, personal property searches and correspondence searches. The policies must include the following:
  - (a) a protocol for conducting personal property searches when the youth is not available to be present for the search; and
  - (b) a procedure for documenting all searches, reasons for the search, who conducted the search and the results of the search.
- (5) Youth may not be subjected to any of the following intrusive acts:
  - (a) strip searches;
  - (b) body cavity searches; or
  - (c) video surveillance.

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(6) Youth may be not subjected to urinalysis testing unless the testing has been ordered by a court, is required pursuant to a case plan for monitoring drug or alcohol use, as approved by the parent or legal guardian, or requested by the youth's parent or legal guardian. The following requirements must be met by the program utilizing urinalysis testing:

(a) Prior to any testing, the program shall adopt policies which address, at a minimum, procedures for obtaining samples for urinalysis testing.

(b) Staff shall document compliance with program policies in connection with each testing.

**Mont.Admin.R. T. 37, Ch. 98, Subch. 9, RESERVED**

**Sub-Chapter 9. RESERVED**