

ARSD 67:42:07:01

67:42:07:01. Definitions.

Terms used in this chapter mean:

- (1) “After-care services,” supportive social services, as specified in the treatment plan, for the family after the child has returned home;
- (2) “Alternative services,” an array of services that may be provided by the group care center to a child and the child’s family that are designed to enable the child to remain at home or to remain in or return to a placement in the nearest possible proximity to the child’s home or placement resource;
- (3) “Family services,” social rehabilitative services to family members to alleviate problems specified in the treatment plan that keep a child from returning to the child’s own home;
- (4) “Group care center,” a facility licensed by the department to care for children who are experiencing family problems and interpersonal conflicts, are unable to remain in a family setting, and require ongoing group and individual counseling or alternative services in a structured treatment program using facility-based services;
- (5) “Personal restraint” or “restraint,” the application of physical force without the use of any device for the purpose of restraining the free movement of a resident’s body. The term does not include briefly holding a resident without undue force in order to calm or comfort the resident or holding a resident’s hand for purposes of safely escorting the resident from one area to another;
- (6) “Program director,” the individual responsible for developing, implementing, supervising, and monitoring the services provided;
- (7) “Seclusion,” the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving;
- (8) “Shelter care facility,” a group care center that provides short-term, full-time care for children often placed under emergency conditions. This includes the placement of a child into a shelter care facility for purposes of providing short-term assessment services;

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(9) “Short-term assessment services,” planned or emergency diagnostic services that include a time-limited assessment or diagnostic process used to evaluate the child’s and family’s needs and determine the most appropriate level of care and services needed; and

(10) “Treatment plan,” a plan that explains the child’s social, psychological, medical, or economic problems, contains solutions to the problems, and describes the necessary steps and schedules to resolve the problems.

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67:42:07:01.01. Shelter care facility—Length of stay.

A shelter care facility provides neither treatment nor treatment planning. A shelter care facility may maintain children for no more than 30 days. If a placement plan has been made but cannot be implemented or needed assessment services cannot be completed within the 30-day period, an extension of time not to exceed 30 days may be allowed.

ARSD 67:42:07:01.02

67:42:07:01.02. Agreement to provide alternative services.

If a group care center provides alternative services to children in the custody of the department, the center must have a signed alternative service agreement with the department. The agreement must specify the alternative services that are subject to reimbursement from the department and the criteria that must be met in the delivery of the services.

ARSD 67:42:07:02

67:42:07:02. Qualifications for program director.

The program director must have a bachelor’s degree in an accredited behavioral or social science area or an equivalent combination of education and experience and at least two years of relevant alternative child care experience. The program director may not have on record a substantiated report of child abuse or neglect.

ARSD 67:42:07:03

67:42:07:03. Staff-child ratio.

Child care staff must be employed to maintain daily living conditions for all children in care. Group care centers shall maintain a staff-child ratio of one adult for each eight children or fraction thereof during waking hours

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whenever children are present. In addition, shelter care facilities shall maintain a staff-child ratio of one adult for each four children or fraction thereof under the age of four during waking hours. During sleeping hours, there must be at least one staff member present in each separate sleeping unit to supervise children, but not less than one staff member for each 25 children or fraction thereof in the building.

Additional child care staff must be on call. A list of the staff members on call must be posted by the facility's telephone in case of an emergency. The facility must have a written plan to ensure that staff, law enforcement, or appropriate emergency responders are available at the center within a reasonable time in the event of an emergency. Arrangements must be made for employing substitute staff to serve children in emergencies, during vacations or illness of regular staff, and during the time when regular staff is off duty. Auxiliary staff members, such as certified special education teachers, mental health professionals, and physical or occupational therapists, must be provided according to the defined purposes of the center.

The department may require a higher staff-child ratio if on-site visits indicate a need for more supervision to maintain control and discipline.

ARSD 67:42:07:04

67:42:07:04. Orientation and in-service training.

The facility must have written plans for orientation and in-service training. Each direct child care staff member shall participate in the in-service training. The written plan for in-service training must provide for training in the following areas for staff during the first year of employment:

- (1) Administrative procedures and overall program goals;
- (2) Understanding children's emotional needs and problems that affect and inhibit their growth;
- (3) Family relationships and the impact of separation;
- (4) Substance abuse, its recognition, prevention, and treatment;
- (5) Identification and reporting of child abuse and neglect;
- (6) Principles and practices of child care;
- (7) Behavior management techniques;

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(8) Use of seclusion and personal restraint, if used by the facility;

(9) Emergency and safety procedures; and

(10) Cultural sensitivity.

Staff must receive training to become certified in basic first aid and cardiopulmonary resuscitation and must maintain certification throughout employment.

For staff beyond the first year of employment, the plan must provide for competency-based training based on an annual evaluation of the staff member's competencies.

Each staff member must have 24 hours of training annually. The facility shall provide a minimum of 24 hours of planned in-service training annually. The training in behavior management techniques and personal restraint must be from a nationally recognized program.

Staff members shall complete an orientation course within one month after they are hired. The facility may consider the orientation course a part of the required 24 hours of in-service training. The orientation course must include the facility's functions, services, community resources, and specific job functions.

Supervision of staff members as they perform their routine tasks is not considered in-service training for purposes of this requirement. Participation in training must be documented and kept in the individual's personnel file.

ARSD 67:42:07:05

67:42:07:05. Treatment plan.

The facility shall develop a written treatment plan for each child in care within one month after admission. The development of the treatment plan must involve the child in care, the facility staff working with the child, the placement agency, and if appropriate, the parent or guardian. The treatment plan must contain the following:

(1) An assessment of the child's needs and strengths;

(2) Treatment goals for the child and family, including a description of how family and aftercare services will be provided, and projected times for achieving goals; and

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(3) A discharge plan that includes the projected length of stay and the conditions under which the child will be discharged.

A shelter care facility that does not provide short-term assessment services is exempt from the requirement for establishing a written case treatment plan.

ARSD 67:42:07:06 Repealed

67:42:07:06. Compliance with chapter 67:42:06. Repealed.

ARSD 67:42:07:07

67:42:07:07. Staff qualifications—Contact with references required.

The facility shall contact at least three former employers or, if former employers are not available, professional references of an employee applicant concerning the applicant's character and competence. The employee applicant may not be related to the former employers or the references. The facility shall maintain a record of the contacts. Records of contact must be in the form of a documented conversation or a written letter. Contacts must be on record before hiring staff.

An employee must be at least 18 years of age and may not have on record a substantiated report of child abuse or neglect. An employee who is under the age of 21 must be under the direct supervision of an experienced child care staff member who is at least 21 years of age and must be at least three years older than any child the employee supervises.

An employee must demonstrate a capacity to carry out the duties of the employee's job description.

ARSD 67:42:07:08. Repealed

67:42:07:08. Staff health requirements. Repealed.

ARSD 67:42:07:09

67:42:07:09. Personnel record.

A facility shall maintain a personnel record on each employee and volunteer. The record must include the employee's or volunteer's educational background, job description, previous work history, annual performance appraisals together with the employee's or volunteer's comments on the appraisal, a record of orientation and in-service training, the annual assessment of training needs, documentation of the provider's contact with references, verification of screening for substantiated reports of child abuse or neglect and verification that a criminal record check was completed.

The facility shall make its personnel records available to the department for verification of the contents.

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67 :42:07 :10. Health care of children.

If a child is in care for 30 days or longer, the facility shall maintain the following health information in the child's record:

- (1) A record of a physical examination made within twelve months before or 30 days after admission;
- (2) A written, continuing health and medical history including illnesses, hospitalization, and surgery;
- (3) A record of current immunizations against diphtheria, whooping cough, tetanus, polio, measles, mumps, and rubella;
- (4) Reports of dental and hearing examinations and treatments; and
- (5) A signed authorization for regular and emergency medical and surgical care and for securing any medical reports. The facility shall obtain this authorization at the time the child is placed into the facility.

ARSD 67 :42:07 :11

67 :42:07 :11. Fire and health inspections.

The facility must meet the applicable environmental health standards in chapter 67:42:11. The Department of Public Safety, the city fire inspection authority, or the city health inspection authority must inspect the physical condition of the facility before initial licensing and each year thereafter for renewal of the license. Based on the results of the inspection, the department may require the facility to either submit a plan of correction or comply with the inspector's recommendation. Failure to submit or follow a plan of correction or comply with the inspector's recommendation shall result in revocation of an existing license, denial of a request for a new license, or denial of a request to renew an existing license. The facility must have a written, posted fire escape plan and must conduct a minimum of four fire drills a year.

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67 :42:07 :11.01. Building plans.

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Before building a new facility or renovating or altering an existing facility, the facility must submit a copy of the proposed building, renovation, or alteration plan to the department for review. The plan must indicate the interior dimensions of each room and the intended use of the room, the location of the fixtures in each bathroom, and the location of the appliances and fixtures for the kitchen. Indoor and outdoor play space must be identified.

ARSD 67:42:07:12

67:42:07:12. Sleeping space.

A facility that cares for both genders shall provide for the separation of the genders during sleeping hours for children over age six and shall provide for the monitoring of all sleeping children. The facility shall provide each child with an individual bed and individual storage space for personal belongings including space for clothing and individual items required to meet the child's day-to-day living needs. Bed linens, blankets, and pillows must be provided for all children.

ARSD 67:42:07:13

67:42:07:13. Nutrition requirements.

A group care center shall provide a child in care with at least three meals a day. The meals must be of sufficient quantity to meet the child's nutritional needs. The group care center must adhere to special diets prescribed for the child by a physician or dietitian.

ARSD 67:42:07:14

67:42:07:14. Volunteers.

A facility that regularly uses volunteers to work directly with children in care shall meet the following requirements:

- (1) The facility must have a written description of duties and specific responsibilities for volunteer positions;
- (2) The facility must have at least three references for each volunteer. The references may not be related to the volunteer. References must reflect positively on the volunteer and the provider must check the references before the volunteer performs services. The provider shall document the contacts with the references. Documentation must be in the form of a written letter or documented conversation;
- (3) The facility shall designate a staff member to supervise and evaluate volunteers;

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(4) The facility shall develop a written plan for the orientation and training of volunteers in the purpose of the facility's treatment program and the needs of the children in care;

(5) The facility shall ensure that volunteers who work 30 or more hours per week or who are used to meet the required staff-child ratio to meet the training requirements of § 67:42:07:04;

(6) The facility shall inform the volunteers of their obligation to report and the method of reporting suspected child abuse and neglect; and

(7) The facility shall screen each volunteer applicant's name for substantiated reports of child abuse and neglect before the volunteer performs services to children. A volunteer may not have on record a substantiated report of child abuse or neglect.

ARSD 67 :42:07 :15

67 :42:07:15. Staff responsibility for reporting suspected in-house incidents of child abuse or neglect.

The facility shall require each staff member to read and sign a statement which defines child abuse and neglect and outlines the staff member's responsibility to report all incidents of child abuse or neglect according to state law. In addition to complying with SDCL 26-8A-3 and 26-8A-8, each staff member shall immediately report any suspected incident of child abuse or neglect to the executive director or the director's designee. The executive director or the designee shall immediately report any suspected or alleged in-house incident of child abuse or neglect to the department and cooperate fully in the investigation of any incident.

ARSD 67 :42:07 :16

67 :42:07 :16. Facility procedures for handling suspected in-house child abuse.

The facility shall have written procedures for handling suspected in-house child abuse. The procedures must include at least the following:

(1) A procedure for ensuring that the alleged incident could not recur while awaiting the official investigation by the department or law enforcement;

(2) A procedure for evaluating the continued employability of any staff member determined to be involved in an incident of child abuse.

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67 :42:07 :17 . Interstate placement of children.

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The facility shall notify the department's interstate compact administrator before accepting an out-of-state child for placement in South Dakota.

ARSD 67:42:07:18

67:42:07:18. Written policy on discipline.

The facility shall establish and follow a written policy regarding discipline, behavior support, and intervention that must be made known to all children, families, guardians, staff, and placing agencies. This policy must encourage and support the positive development of children, nurture a culture of respect and safety, and emphasize proactive and preventive intervention. The policy must prohibit corporal punishment and methods that cause physical discomfort; chemical, mechanical, or peer restraint; denial or deprivation of sleep, nutrition, access to bathroom facilities, or family visits; verbal abuse, ridicule, or humiliation; shaming or sarcasm; group punishment; and impingements on the basic rights of children to care, protection, safety, and security.

Children may not discipline other residents.

ARSD 67:42:07:19

67:42:07:19. Written procedures for medication administration.

The facility shall establish and follow written procedures for the storage and administration of medication. These procedures must be given to all staff members responsible for administering medication and must include the following:

- (1) Conditions under which medications may be given;
- (2) Procedures for documenting the administration of medication;
- (3) Procedures for immediately notifying the facility's nurse in cases of medication errors or drug reactions. The nurse shall assess the situation and determine whether there is a need to report the incident to the attending physician; and
- (4) Procedures for evaluating and recording each child's reactions to prescribed medication.

A nurse licensed under the provisions of SDCL chapter 36-9 is responsible for the administration of medications.

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The nurse may delegate the administration of medications to unlicensed assistive personnel only if the requirements of chapter 20:48:04.01 are met.

ARSD 67:42:07:20

67:42:07:20. Psychotropic medications.

The facility may provide psychotropic medications to a child only as prescribed by the physician responsible for the diagnosis, treatment, and therapeutic planning for the child; a certified nurse practitioner in collaboration with the physician; or a physician's assistant supervised by the physician.

The facility shall obtain from the prescribing physician, certified nurse practitioner, or physician's assistant a written report at least every 90 days detailing the reasons the psychotropic medication is being continued, discontinued, or changed, as well as any recommended changes in the treatment goals and plan. The prescribing physician, certified nurse practitioner, or physician's assistant must base the report on their actual observation of the child as well as a review of the child's records.

ARSD 67:42:07:21 Repealed

67:42:07:21. Administration of medications. Repealed.

ARSD 67:42:07:22

67:42:07:22. Required medication records.

The facility shall develop and follow a written medication schedule for each child receiving medication. The schedule shall be used by the staff member administering medication. The schedule shall be a part of the child's medical record and shall contain the following information:

- (1) Name of child;
- (2) Name of prescribing physician or psychiatrist;
- (3) Telephone number at which the prescribing physician or psychiatrist can be reached in case of medical emergency;
- (4) Date on which medication is prescribed;

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(5) Name of medication;

(6) Dosage of medication;

(7) When medication is to be administered;

(8) Date medication will be reviewed; and

(9) Chart showing the date, time, amount, and signature of person administering each dosage of medication.

ARSD 67:42:07:23

67:42:07:23. Medication control.

The facility shall keep all medications in a locked cabinet. The facility may not permit medication prescribed for one child to be given to another child. The facility shall maintain a central registry of usage of psychotropic medications with entries made the same day the medication is administered.

ARSD 67:42:07:24

67:42:07:24. Use of seclusion and restraint to be approved by child placement agency—Required documentation.

A facility may not place a child in seclusion or restraint unless the child placement agency has given the facility permission and the use of seclusion or restraint has been incorporated into the child's treatment plan. If a child has been placed in the facility by the child's parent or guardian, the parent or guardian must approve the use of seclusion or restraint.

If a child is placed in seclusion or restraint, the facility must document the reasons for the placement, the duration of the placement, and the child's reactions to the placement. This documentation must become a part of the child's record.

A shelter care facility may not use locked seclusion.

ARSD 67:42:07:25

67:42:07:25. Physical requirements for room used for seclusion.

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A room used exclusively for seclusion must be designed and constructed to ensure the health, safety, and well-being of children placed in seclusion. The floor space may be not less than 54 square feet with a ceiling height of not less than 8 feet. The floor and wall coverings, as well as any contents of the room, must have a one-hour fire rating and may not produce toxic fumes if burned. The walls must be kept completely free of objects. A lighting fixture, equipped with a minimum of a 75-watt bulb, must be screened or designed and installed to prevent tampering by an occupant of the room used for seclusion. If a locking mechanism is used for the room, it must be designed to be fail-safe and tied into the fire-alarm system to release when the alarm is activated or when there is a loss of power to the fire alarm panel. The door must be equipped with a window mounted in a manner that allows inspection of the entire room. Glass must be impact-resistant and shatterproof. The room must be ventilated by either natural or mechanical means.

The department may waive the space requirements for rooms used for seclusion that were in existence before July 25, 1985, if the rooms meet all other requirements in this section.

ARSD 67:42:07:26

67:42:07:26. Staff person to monitor seclusion room.

A facility that uses seclusion shall provide a staff person to continuously observe and monitor a child who has been placed in a room for purposes of seclusion to evaluate the child's physical and psychological well being. The staff person shall ensure the following:

- (1) That a child placed in seclusion does not inflict self-injury;
- (2) That the observation is documented and signed and becomes a part of the child's record;
- (3) That the personal needs of the child are met, including prompt access to washroom facilities;

(4) That the child receives all meals provided to other children in care; and

(5) If necessary to ensure the safety of the child, the staff person is physically present in the seclusion room to assist the child in controlling behavior.

ARSD 67:42:07:27

67:42:07:27. Placement in seclusion or restraint—Limits.

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If a child is aged nine to 17, the child may not be placed in seclusion or restraint for more than two consecutive hours. If a child is under age nine, the child may not be placed in seclusion or restraint for more than one hour. If a child has been in seclusion or restraint for the maximum time allowed, the program director or the director's designee shall immediately hold a conference with the staff members involved in placing and monitoring the child in seclusion or restraint and a representative of the child placement agency or the child's parent or guardian if a placement agency is not involved. They shall review the appropriateness of the treatment plan and whether the child's needs will be met by continued placement in the facility.

ARSD 67 :42:07 :28

67 :42:07 :28. Review and evaluation of treatment plan.

The facility shall provide for the review, evaluation, and updating of the child's treatment plan at least every three months. The updated plan must include the progress made toward achieving the goals established in the previous plan and any amendments made to the plan. A monthly report on the child's progress must be submitted to the placement agency. The facility shall send a copy of the monthly report to the child's parent or guardian if the parent or guardian was involved in the child's placement or is actively involved in the treatment planning. The treatment plan and progress reports must become a part of the child's record. During the month of the quarterly treatment plan review, the 30-day progress report may be incorporated into the quarterly review and treatment plan amendment. A case record must be maintained on each child according to § 67:42:01:21. The facility shall secure records against loss, tampering, or unauthorized use.

A shelter care facility shall write a summary report of the care received by the child including any observations of the child's behavior patterns or special needs of the child. This report must be submitted to the child placement agency upon the discharge of the child.

ARSD 67 :42:07 :29

67 :42:07 :29. Written policy requirements.

The facility shall develop written policies in the following areas:

- (1) Intake;
- (2) Treatment;
- (3) Discharge;
- (4) Discipline;

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- (5) Confidentiality;

- (6) Reporting suspected child abuse and neglect within the facility;

- (7) Use of seclusion and personal restraint, if used by the facility;

- (8) Health care of children; and

- (9) Emergency procedures in case a child is injured.

The facility must inform the child's parent or guardian of these policies, including individuals or agencies to whom required reports must be made. The child's parent or guardian must sign and date a statement that lists the specific policies covered as verification that the facility provided the required information. The facility shall make copies of these policies available on request.