

ADMINISTRATIVE RULE OF MONTANA

HEALTHCARE FACILITIES

37.97 Subchapter 1

Youth Care Facilities

RULE

37.97.101 PURPOSE

37.97.102 DEFINITIONS

RULES 37.97.103 AND 37.97.104 RESERVED

37.97.105 LICENSE REQUIRED

37.97.106 LICENSES

RULES 37.97.107 THROUGH 37.97.109 RESERVED

37.97.110 LICENSING PROCEDURES

RULES 37.97.111 THROUGH 37.97.114 RESERVED

37.97.115 LICENSE DENIAL, SUSPENSION, RESTRICTION AND REVOCATION

RULES 37.97.116 AND 37.97.117 RESERVED

RULES 37.97.119 THROUGH 37.97.124 RESERVED

37.97.126 DISCHARGE

37.97.127 CASE RECORDS

37.97.128 CONFIDENTIALITY OF RECORDS AND INFORMATION

RULES 37.97.129 RESERVED

37.97.130 REPORTS

RULES 37.97.131 RESERVED

37.97.132 GENERAL REQUIREMENTS FOR ALL ADMINISTRATORS, STAFF, INTERNS AND VOLUNTEERS

37.97.135 QUALITY ASSESSMENT

37.97.136 CHILD ABUSE OR NEGLECT AND SERIOUS INCIDENTS

37.97.140 STAFF BACKGROUND CHECKS

37.97.141 YOUTH TO AWAKE STAFF RATIOS

37.97.142 STAFF TRAINING

37.97.145 ADMISSIONS

37.97.146 PLACEMENT AGREEMENTS

37.97.147 YOUTH ORIENTATION

37.97.148 CASE PLAN

37.97.152 PHYSICAL CARE

37.97.153 MEDICATION STORAGE AND ADMINISTRATION

37.97.154 CARE AND GUIDANCE

37.97.155 NUTRITION

37.97.156 PERSONAL NEEDS

37.97.159 YOUTH RIGHTS

37.97.160 RELIGION AND CULTURE

37.97.161 PRIVACY AND INDIVIDUALISM

37.97.162 MONEY

37.97.163 YOUTH TRAINING AND EMPLOYMENT

37.97.164 EDUCATION

37.97.165 RECREATION

37.97.170 TIME-OUT

37.97.171 BEHAVIOR MANAGEMENT POLICES

37.97.172 USE OF CRISIS INTERVENTION AND PHYSICAL RESTRAINT STRATEGIES

37.97.175 SEARCHES

37.97.176 CONTRABAND

37.97.177 SAFETY

37.97.178 EMERGENCY AND EVACUATION PLANS

37.97.179 POTENTIAL WEAPONS

37.97.182 FOOD PREPARATION AND HANDLING

37.97.184 INFECTION CONTROL

37.97.185 ANIMALS AND PETS

37.97.186 PHYSICAL ENVIRONMENT

37.97.187 WATER SUPPLY

37.97.188 SEWAGE SYSTEM AND SOLID WASTE

37.97.190 FINANCES

37.97.191 FIRE SAFETY

37.97.101 PURPOSE (1) These rules establish licensing procedures and licensing requirements for youth care facilities.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-602, 52-2-622, 53-2-201, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1991 MAR p. 2605, Eff. 12/27/91; TRANS, from DFS, 1998 MAR p. 663; AMD, 2011 MAR p. 387, Eff. 3/25/11.

37.97.102 DEFINITIONS The following definitions apply to all YCF licensing rules:

(1) "Chemical restraint" means the use of a drug or medication that is used to control behavior or restrict the youth's freedom of movement, and which is not a standard treatment for the youth's medical or psychiatric condition. The use of chemical restraint is prohibited in all YCFs.

(2) "Child" or "youth" means any person under the age of 18 years, without regard to emancipation, except for youth covered by Montana Medicaid programs which allow for participation of youth up to the age of 20 years as defined in ARM [37.87.102](#), and parenting or pregnant youth, up to the age of 21 years, who are placed in a child care agency-maternity home.

(3) "Childcare agency" means any YCF in which substitute care is provided to 13 or more youth.

(4) "Clinical assessment" means an assessment with a DSM diagnosis and a social history completed by the mental health professional. Clinical assessments include the following information:

(a) diagnosis supported by a rationale, with specific behaviors and risk factors identified.

(b) trauma history.

(c) substance use history.

(d) presenting problem.

(e) history of problem.

(f) psychiatric history (interventions, responses to treatment, medications);

(g) developmental history.

(h) medical history.

(i) social and educational history; and

(j) identified strengths and needs.

(5) "Correspondence search" means opening, inspecting, and/or reading a youth's mail or inspecting the contents of a package.

(6) "Department" means Department of Public Health and Human Services.

(7) "Direct care staff" means YCF personnel who directly participate in the care, supervision, and guidance of youth in a YCF.

(8) "Discharge plan" means a realistic plan developed at the time of admission to transition the youth to a less restrictive and appropriate placement with specific services identified and available.

(9) "Family" means the youth, the youth's biological, adoptive, or foster family, including siblings, grandparents, and fictive kin, which refers to someone who, though unrelated by birth or marriage, has such a close emotional relationship with the youth that they may be considered part of the family.

(10) "Licensure bureau" means the area of the department responsible for licensing a YCF.

(11) "Maternity home" means a YCF which provides for the care and maintenance of youth during pregnancy, childbirth, and postnatal periods. A maternity home must meet the licensing requirements of a child care agency regardless of the number of residents served.

(12) "Mechanical restraint" means the use of devices as a means of restricting a youth's freedom of movement. The use of mechanical restraint is prohibited in any YCF.

(13) "Mental health professional" means a licensed clinical psychologist, licensed clinical social worker (LCSW), licensed marriage and family therapist (LMFT), licensed clinical professional counselor (LCPC), or any of following licensure candidates under Title 37, chapter 22, 23, or 37, MCA:

(a) social worker licensure candidate.

(b) professional counselor licensure candidate; or

(c) marriage and family therapist licensure candidate.

(14) "Pat-down search" means a body search done outside of a youth's clothing with the intention of locating suspected contraband.

(15) "Personal property search" means a search which includes but is not limited to going through a youth's personal property and/or room including closet, bed, desk, dresser drawers, etc., with the intention of looking for contraband.

(16) "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a youth who is acting out to walk to a safe location.

(17) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of the free movement of an individual's arms, legs, or head. Such term does not include physical escort. Physical restraint may be imposed only in emergency circumstances and only to ensure the immediate physical safety of the resident, a staff member, or others, when less restrictive interventions have been determined to be ineffective.

(18) "Program manager" means an employee of a therapeutic group home provider who is responsible for the overall management and supervision of the program. A program manager must have a bachelor's degree in human services, or the experience and education, equivalent to a bachelor's degree. Human services experience equivalent to a bachelor's degree for a nondegree program manager is six years. Each year of post-secondary education in human services for a nondegree program manager equals one year of experience.

(19) "Seclusion" means a behavior control technique involving locked isolation in which the resident is physically prevented from leaving. Such term does not include time-out. Seclusion is prohibited in licensed YCFs.

(20) "Serious incident" means suicide attempt, use of excessive physical force by staff, physical or sexual assault of a youth by resident or staff, injury to a youth which requires emergency medical care, known or suspected abuse or neglect of a youth by staff or resident, or the death of a youth.

(21) "Substitute care" means the full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or who are without the care and supervision of their parents or guardian.

(22) "Therapeutic group home (TGH)" means a treatment facility providing therapeutic services licensed and under contract with the department as a YCF with the supervision and intensity of treatment required to manage and treat up to eight youth who present severe emotional disturbance (SED) and/or behavioral disorders as determined by the department.

(23) "Therapeutic intervention" means interventions that are implemented as described in the TGH trauma informed treatment model addressing goals and objectives identified in the youth's treatment plan.

(24) "Therapeutic milieu" means the entire treatment environment in which comprehensive treatment is delivered as described in the TGH's policy and procedures.

(25) "Therapeutic services" means the provision of therapy and therapeutic interventions to reduce the impairment of the youth's mental disability and to improve the youth's functional level; to alleviate the emotional disturbances; to reverse or change maladaptive patterns of behavior, and to encourage personal growth and development. Therapeutic services must be provided under a treatment framework that involves understanding, recognizing, and responding to the

effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma specific interventions to address trauma's consequences and facilitate healing.

(26) "Therapy" means the provision of appropriate therapeutic services and rehabilitative services provided by the mental health professional acting within the scope of the professional's license and in compliance with the trauma-informed treatment model.

(27) "Time-out" means the restriction of a youth for a period of time to a designated area from which the resident is not physically prevented from leaving for the purpose of providing the youth the opportunity to regain self control.

(28) "Youth care facility (YCF)" means a licensed facility in which substitute care is provided to youth and includes youth foster homes, youth group homes, youth shelter care facilities, therapeutic group homes, and childcare agencies.

(29) "Youth group home" means a YCF in which substitute care is provided to seven to 12 youth.

(30) "Youth group home manager" means an employee of a regular youth group home. The group home manager trains and supervises direct care staff and provides supervision to youth in care no more than 50 percent of the time. A group home manager must have a bachelor's degree in human services, or the experience alone or experience with and education equivalent to a bachelor's degree. Human services experience equivalent to a bachelor's degree for a nondegree manager is six years. Each year of post-secondary education in human services for a nondegree manager equals one year of experience.

(31) "Youth shelter care facility" means a YCF that regularly serves youth under temporary conditions until the court, probation office, the department, or other appropriate social agency has made other provisions for their care.

(32) "Youth shelter care manager" means an employee of a youth shelter care home. The shelter care manager trains and supervises direct care staff and provides supervision to youth in care no more than 50 percent of the time. A shelter care manager must have a bachelor's degree in human services, or the experience and education equivalent to a bachelor's degree. Human services experience equivalent to a bachelor's degree for a nondegree manager is six years. Each year of post-secondary education in human services for a nondegree manager equals one year of experience.

(33) "Youth/staff ratio" means number of youth in care per each on-duty direct care staff member.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, 53-2-201, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1942, Eff. 7/1/87; AMD, 1988 MAR p. 172, Eff. 1/29/88; AMD, 1991 MAR p. 2605, Eff. 12/27/91; AMD, 1992 MAR p. 2728, Eff. 12/25/92; AMD, 1993 MAR p. 403, Eff. 3/26/93; AMD, 1993 MAR p. 1209, Eff. 6/11/93; AMD, 1993 MAR p. 1506, Eff. 7/16/93; AMD, 1995 MAR p. 471, Eff. 3/31/95; AMD, 1198 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663; AMD, 2011 MAR p. 387, Eff. 3/25/11; AMD, 2015 MAR p. 756, Eff. 6/12/15; AMD, 2019 MAR p. 1526, Eff. 10/1/19; AMD, 2021 MAR p. 1217, Eff. 10/1/21.

37.97.105 LICENSE REQUIRED (1) Every YCF shall be licensed by the department, or responsible tribal authority.

(2) Failure of a provider to obtain or renew a license while continuing to operate a YCF is a misdemeanor and shall be subject to the penalties provided in [41-3-504](#), MCA.

History: 52-2-111, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-621, 52-2-623, 53-2-201, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663; AMD, 2011 MAR p. 387, Eff. 3/25/11.

37.97.106 LICENSES (1) The department shall issue a one year YCF license to any license applicant that meets all licensing requirements established by these rules, as determined by the department after a licensing survey, or that is licensed or otherwise approved by another state agency.

(a) The department shall renew the license annually on the expiration date of the previous year's license if:

(i) the YCF makes written application for renewal at least 30 days prior to the expiration date of its current license; and

(ii) the YCF continues to meet all licensing requirements established by these rules, as determined by the department after a relicensing survey.

(b) If a YCF makes timely application for renewal of a license, but the department fails to complete the relicensing survey before the expiration date of the previous year's license, the previous year's license will continue in effect for the time necessary for the department to complete the relicensing survey and to make a determination of compliance with licensing requirements.

(2) A therapeutic group home must be accredited by the following independent organizations:

(a) The Commission on Accreditation of Rehabilitation Facilities (CARF);

(b) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

(c) Council on Accreditation (COA); or

(d) another independent, not-for-profit accrediting organization that has been approved by the Secretary of the U.S. Department of Health and Human Services.

(3) The department may in its discretion issue a provisional license for any period up to six months to any license applicant which:

(a) has met all licensing requirements for fire safety; and

(b) has agreed in writing to comply fully with all licensing requirements established by these rules within the time period covered by the provisional license.

(i) The department may in its discretion renew a provisional license if the license applicant shows good cause for failure to comply fully with all licensing requirements within the time period covered by the prior provisional license, but the total time period covered by the initial provisional license and renewals may not exceed one year.

(4) A restricted license may be issued for the care of a specific child with the approval of the department.

(5) The YCF shall not accept more children than the number specified on the license.

(6) The current YCF license shall be publicly displayed at the YCF.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 41-3-1142, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1983 MAR p. 1746, Eff. 11/26/83; AMD, 1984 MAR p. 1635, Eff. 11/16/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1988 MAR p. 2217, Eff. 10/14/88; AMD, 1990 MAR p. 590, Eff. 3/30/90; AMD, 1991 MAR p. 2605, Eff. 12/27/91; TRANS, from DFS, 1998 MAR p. 663; AMD, 2011 MAR p. 387, Eff. 3/25/11; AMD, 2021 MAR p. 1217, Eff. 10/1/21.

37.97.110 LICENSING PROCEDURES (1) Application for a YCF license must be made on an application form provided by the department.

(2) The YCF shall submit all written program management policies and procedures to the department for approval with the initial application. Policies and procedures must comply with requirements outlined in this chapter. The YCF shall submit to the department any significant changes to policies and procedures for approval.

(3) Upon receipt of a complete application for license or renewal of license, the department shall conduct a licensing survey to determine if the applicant meets all applicable licensing requirements.

(4) If the department determines during the survey that the applicant is out of compliance with the applicable licensing requirements, the department will notify the applicant of the specific deficiencies or errors, and the applicant shall submit a written plan of correction within ten working days of the department's notification of noncompliance specifying how compliance will be made.

(5) The department must approve the plan of correction prior to issuing a license.

(6) The department shall not issue a license or renew a license until it receives all required or corrected information.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, 53-2-201, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1979 MAR p. 443, Eff. 5/11/79; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1991 MAR p. 2605, Eff. 12/27/91; TRANS, from DFS, 1998 MAR p. 663; AMD, 2011 MAR p. 387, Eff. 3/25/11.

37.97.115 LICENSE DENIAL, SUSPENSION, RESTRICTION AND REVOCATION (1) The department, after written notice to the applicant or licensee, may deny, suspend, restrict, revoke, or reduce to a provisional status a license upon a finding of any of the following that:

(a) the YCF is not in compliance with fire safety standards.

(b) the YCF is not in substantial compliance with any other licensing requirements established by this chapter.

(c) the YCF has made any misrepresentations to the department, either negligent or intentional, regarding any aspect of its operations or facility.

(d) the YCF has failed to use the foster care payments for the support of the foster child.

(e) the YCF or its staff have been named as the perpetrator in a substantiated report of abuse or neglect.

(f) the YCF or any member of its staff has violated provisions of this subchapter that resulted in child abuse or neglect.

(g) the YCF or any member of its staff do not meet the requirements in ARM [37.97.140](#);

(h) the YCF failed to report an incident of abuse or neglect to the department or its local affiliate as required by [41-3-201](#), MCA;

(i) it is determined on the basis of a department or law enforcement investigation that the YCF, its staff or anyone living in a YCF may pose any risk or threat to the safety or welfare of any youth placed in the YCF; or

(j) the YCF has failed to provide an acceptable written plan of correction as specified in ARM [37.97.110](#).

(2) At the discretion of the department and for protection of the youth, youth may be moved immediately upon receipt of a report of sexual or physical abuse or neglect by the YCF.

(3) Any person denied a license under the provisions of this subchapter, or whose license has been suspended, restricted, revoked, or reduced to a provisional status, may request a hearing as provided in

ARM [37.5.304](#), [37.5.305](#), [37.5.307](#), [37.5.310](#), [37.5.313](#), [37.5.316](#), [37.5.322](#), [37.5.325](#), [37.5.328](#), [37.5.331](#), [37.5.334](#), and [37.5.337](#).

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, 53-2-201, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1983 MAR p. 1746, Eff. 11/26/83; AMD, 1984 MAR p. 1635, Eff. 11/16/84; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD,

1990 MAR p. 590, Eff. 3/30/90; AMD, 1991 MAR p. 2605, Eff. 12/27/91; TRANS, from DFS, 1998 MAR p. 663; AMD, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.126 DISCHARGE (1) The YCF must develop and implement written discharge policies and procedures that include discharge planning to begin at the time of admission.
- (2) Within ten business days of the discharge of a youth from the YCF, a discharge report must be completed, and include:
- (a) the youth's name, date of birth, admission and discharge dates, reason for placement and discharge, the placing agent, and/or parent or guardian.
 - (b) a written summary of services provided, including the youth's participation and progress in the program, contact information of persons who conducted evaluations of the youth, condition of the youth, compliance with YCF policies and procedures, and recommendations regarding the youth.
 - (c) the youth's educational status.
 - (d) medical, dental, and psychiatric care received during placement.
 - (e) follow-up health care required for the youth.
 - (f) current medications, dosage taken, number of times per day, and name of prescribing licensed health care professional.
 - (g) youth's reaction to discharge and whether or not the discharge was planned or unplanned.
 - (h) youth's continuing needs and recommendations for follow-up services for the youth.
 - (i) an up-to-date inventory of the youth's clothing and personal belongings; and
 - (j) the signature of the staff member who prepared the report and the date of preparation.
- (3) Therapeutic group homes must document that the youth, parent/legal guardian, and placing agency participated in the development of the discharge plan and summary.
- (4) The original discharge report must be maintained by the YCF in the youth's file and a copy must be provided to the placing agency or legal guardian within ten days of completion.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11; AMD, 2021 MAR p. 1217, Eff. 10/1/21.

- 37.97.127 CASE RECORDS (1) A YCF shall maintain a written or electronic case record for each youth which shall include administrative, treatment, and educational data from the time of admission until the time the youth is discharged from the YCF. A youth's case record must include but is not limited to 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.
 - (i) therapeutic group homes must maintain contact information on all known family and document outreach efforts.
 - (c) date of admission and placing agency.
 - (d) if the youth was not living with the youth's parents prior to admission, the name, address, telephone number, and relationship to the youth of the person with whom the youth was living.
 - (e) date of discharge, reason for discharge, and the name, telephone number, and address of the person or agency to which the youth was discharged.
 - (f) all documents related to the referral of the youth to the facility as provided by the placing agency.
 - (g) current custody and legal guardianship documents as provided by the placing agency.
 - (h) the youth's court status, if applicable.

- (i) a copy of the youth's birth certificate or a written statement of the youth's birth date, including the source of this information.
- (j) consent forms signed by the parents or guardian prior to placement allowing the YCF to authorize all necessary medical care, routine tests, immunization, and emergency medical or surgical treatment.
- (k) cumulative health records including medical history and immunization records as provided by the placing agency.
- (l) education records and reports, including but not limited to, reports cards and individual education plan (IEP) reports.
- (m) treatment or clinical records and reports.
- (n) records of special or critical incidents.
- (o) case plans, treatment plans, and related material.
- (p) social assessment that is current to date of placement; and
- (q) an immediate needs assessment and assigned responsibilities.
- (2) In addition to the requirements in (1), therapeutic group homes must maintain:
 - (a) an updated copy of the youth's clinical assessment.
 - (b) a list and contact information of all known family, as provided by the entity placing the youth, and family known to the TGH through their work with the youth; and
 - (c) documentation of all outreach efforts to identified family, to build a positive network to support the wellbeing of the youth. Documentation must include:
 - (i) a minimum of two attempts to contact all identified family;
 - (ii) results of each contact; and
 - (iii) how the TGH will support and facilitate regular contact with identified family as outlined in the youth's treatment plan.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11; AMD, 2021 MAR p. 1217, Eff. 10/1/21.

37.97.128 CONFIDENTIALITY OF RECORDS AND INFORMATION (1) All records maintained by a YCF, and all personal information made available to a YCF 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) of this rule.

- (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 representatives.
- (4) Records pertaining to individual youth not placed by or in the custody of the department shall be available to the department for the purposes of licensing or relicensing the YCF.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-622, 53-2-105, 53-2-106, 53-2-201, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1984 MAR p. 1635, Eff. 11/16/84; AMD, 1986 MAR p. 2080,

Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663; AMD, 2011 MAR p. 387, Eff. 3/25/11.

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

(2) The YCF shall report any of the following changes in writing to the department's licensure bureau, prior to the effective date of the change:

(a) a change of administrator.

(b) a change in location of which the department shall approve prior to the move.

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

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

(3) Runaways shall be reported immediately to the police and within the next working day to the agency or person who placed the youth.

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

History: 41-3-1103, 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-622, 53-2-201, MCA; NEW, 1978 MAR p. 88, Eff. 1/26/78; AMD, 1983 MAR p. 742, Eff. 7/1/83; AMD, 1983 MAR p. 1746, Eff. 11/26/83; AMD, 1986 MAR p. 2080, Eff. 12/27/86; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 663; AMD, 2011 MAR p. 387, Eff. 3/25/11.

37.97.132 GENERAL REQUIREMENTS FOR ALL ADMINISTRATORS, STAFF, INTERNS AND VOLUNTEERS (1) A YCF must have written personnel and program policies and procedures covering the following items:

(a) screening procedure for all applicants.

(b) job qualifications.

(c) job descriptions.

(d) supervisory structure; and

(e) performance evaluations.

(2) A YCF must maintain records for each staff member, volunteer, contracted personnel, and intern regarding the following:

(a) application for employment.

(b) written results of at least two references.

(c) record of orientation and ongoing training.

(d) periodic performance evaluations.

(e) copy of current licenses and certifications.

(f) documentation of approved fingerprint-based background check as specified in ARM [37.97.140](#);

(g) documentation of child protective services background checks, and if applicable, tribal criminal background checks as specified in ARM [37.97.140](#);

(h) documentation of state sexual or violent offender registry check as specified in ARM [37.97.140](#);

(i) "personal statement of health for licensure" form as provided by the department;

(j) a copy of an independent contractor status and contractual agreement for contacted personnel; and

(k) any other employee records required by this subchapter.

(3) In addition to the specific requirements set out in subchapters 1 and 2 of this chapter, all staff working in a YCF must:

- (a) be at least 19 years of age;
 - (b) have a high school diploma or GED;
 - (c) be physically, mentally, and emotionally competent to care for youth; and
 - (d) be in good general health.
- (4) The department may require an evaluation or medical examination, a signed authorization for release of medical records, or both from any YCF staff, intern, or volunteer if there are grounds to believe these individuals have engaged in behaviors which may place the YCF youth at risk of harm.
- (5) A "personal statement of health for licensure" form must be completed for each person subject to the requirements of this rule. The form must be submitted to the department upon hire and annually thereafter. The "personal statement of health for licensure" form is available from the Department of Public Health and Human Services, Office of Inspector General, Licensure Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59620-2953.
- (6) Any YCF staff member, intern, volunteer, or other person whose behavior or health status endangers the residents may not be allowed at the YCF.
- (7) YCF volunteers and interns must:
- (a) not be included in the youth to staff ratios.
 - (b) be under the supervision of YCF staff.
 - (c) follow written policies and procedures developed by the YCF defining the responsibilities, limitations, and supervision of volunteers and interns.
 - (d) complete all required background checks; and
 - (e) be provided orientation and initial training procedures. The training must include orientation on all YCF policies and procedures.
- (8) All direct-care staff who transport youth must have a valid driver's license and, while transporting youth, follow all laws applicable to driving in Montana.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-111, 52-2-603, 52-2-622, MCA; NEW, 1991 MAR p. 2262, Eff. 11/28/91; AMD, 1997 MAR p. 1664, Eff. 9/23/97; TRANS, from DFS, 1998 MAR p. 663; AMD, 2011 MAR p. 387, Eff. 3/25/11; AMD, 2015 MAR p. 756, Eff. 6/12/15; AMD, 2019 MAR p. 1526, Eff. 10/1/19; AMD, 2021 MAR p. 1217, Eff. 10/1/21; AMD, 2022 MAR p. 1876, Eff. 9/24/22.

37.97.135 QUALITY ASSESSMENT (1) The youth care facility (YCF) 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 which are maintained and filed at the facility.
- (b) maintaining records on the occurrence, duration, and frequency of physical restraints used; and
- (c) reviewing, on an ongoing basis, serious incident reports, 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 YCF shall prepare and maintain on file an annual report including improvements made as a result of the quality assessment activities specified in this rule.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.136 CHILD ABUSE OR NEGLECT AND SERIOUS INCIDENTS (1) Each YCF shall require each staff member, employee, intern, and volunteer to read and sign a statement that clearly defines child abuse and neglect and outlines the individual's responsibility to report all known or suspected incidents of child abuse or neglect of any youth to the department within 24 hours.

(2) Any YCF 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 of the incident to the YCF administrator, or a person designated by the YCF administrator, and to the state child abuse hotline (866) 820-5437 as required in [41-3-201](#), MCA. The YCF shall fully cooperate with any investigation conducted as a result of the report.

(3) A therapeutic group home must report abuse or neglect to the Mental Disabilities Board of Visitors as required in [53-21-107](#), MCA.

(4) Each YCF shall have written policies and procedures for handling any suspected incident of child abuse or neglect, including but not limited to:

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

(b) a procedure for developing a safety plan approved by the department which protects the youth and staff until the investigation is complete.

(c) 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 YCF geared towards the prevention of future incidents of child abuse or neglect.

(5) Any serious incident involving a youth must be reported in writing the next business day to the person or agency which placed the youth and to the department's licensure bureau.

(a) The report must be in writing and must include but is not limited to:

(i) the date and time of the incident.

(ii) all youth and staff member(s) involved; and

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

(b) A copy of the report must be maintained at the YCF.

(6) The YCF shall cooperate with all licensing investigations, which may include private one-on-one interviews with staff and residents

History: 52-2-603, 52-2-622, MCA; IMP, 41-3-201, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.37.97.140 Staff Background Checks

37.97.140 STAFF BACKGROUND CHECKS (1) All administrators, staff, volunteers, interns, and any adult working in the YCF hired after October 1, 2019, must complete a National Crime Information Center (NCIC) fingerprint-based background check by the Federal Bureau of Investigation. Results of the fingerprint-based background check must be documented prior to working in the YCF.

(2) All administrators, staff, volunteers, interns, and any adult working in the YCF must complete a Montana Department of Public Health and Human Services child protective services background check, and if applicable, a tribal child protective services background check and a tribal criminal background check prior to working in the YCF.

(a) If an applicant has lived outside the state within the past five years, the YCF must complete background checks in every state that the applicant has resided in within the past five years.

(3) All administrators, staff, volunteers, interns, and any adult working in the YCF must complete a Montana Sexual and Violent Offender Registry check. Results of the registry check must be documented prior to working in the YCF.

(4) The department will deny or revoke a license upon finding that:

(a) the administrator, staff member, volunteer, intern, or any adult working in the YCF has been convicted by a court of competent jurisdiction of a felony or misdemeanor involving but not limited to homicide, sexual intercourse without consent, sexual assault, aggravated assault, assault on a minor, assault on an officer, assault with a weapon, kidnapping, aggravated kidnapping, prostitution, robbery, or burglary.

(b) the administrator, staff member, volunteer, intern, or any adult working in the YCF has a conviction for a crime pertaining to children and families, including but not limited to child abuse or neglect, incest, child sexual abuse, ritual abuse of a minor, felony partner and family member assault, child pornography, child prostitution, internet crimes involving children, felony endangering the welfare of a minor, felony unlawful transactions with children, or aggravated interference with parent-child contact;

(c) the administrator, staff member, volunteer, intern, or any adult working in the YCF has within the previous five years a felony conviction of a drug related offense, including but not limited to use, distribution, or possession of controlled substances, criminal possession of precursors to dangerous drugs, criminal manufacture of dangerous drugs, criminal possession of imitation dangerous drugs with the purpose to distribute, criminal possession, manufacture of or delivery of drug paraphernalia, or driving under the influence of alcohol or other drugs;

(d) the administrator, staff member, volunteer, intern, or any adult working in the YCF has been convicted of abuse, sexual abuse, neglect, or exploitation of an elderly person or a person with a developmental disability; or

(e) the administrator, staff member, volunteer, intern, or any adult working in the YCF is a registered offender on the Montana Sexual and Violent Offender Registry

(<https://www.nsopw.gov>) or the National Sexual and Violent Offender Registry

(<https://app.doj.mt.gov/apps/svow/search.aspx>).

(5) The department may deny or revoke a license upon finding that the administrator, staff member, volunteer, intern, or any adult working in the YCF has a conviction for a misdemeanor partner and family member assault, misdemeanor endangering the welfare of a child, misdemeanor unlawful transaction with a child, or a crime involving an abuse of the public trust.

(6) The administrator, staff member, volunteer, intern, or any adult working in the YCF who is charged with a crime involving children, 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.

(7) No administrator, staff member, volunteer, intern, or any adult working in the YCF shall have been named as a perpetrator in a substantiated report of child abuse or neglect.

(8) The YCF is responsible for assuring that the persons covered by this chapter have met these requirements before providing care.

(9) No administrator, staff member, volunteer, intern, or any adult working in the YCF shall pose any potential threat to the health, safety, and wellbeing of the youth in care.

37.97.141 YOUTH TO AWAKE STAFF RATIOS (1) The following ratio must be followed:

- (a) the youth to awake staff ratio of a youth group home shall be no more than 8:1 always; and
 - (b) the youth to awake staff ratio of a youth shelter care facility shall be no more than 8:1 always.
- (2) Childcare agencies shall meet staffing requirements as set forth in ARM [37.97.207](#).
- (3) Therapeutic group homes shall meet staffing requirements as set forth in ARM [37.97.903](#).
- (4) The YCF must have a policy that specifies a nighttime safety protocol for youth.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.142 STAFF TRAINING (1) A YCF shall have written policies, procedures, and initial and ongoing training curriculum that meet the minimum requirements in this rule.

- (2) Providers shall assure adequate and timely training to ensure the safety of youth in care.
- (3) All direct care staff shall complete a minimum of 24 hours of orientation training consisting of the following minimum requirements:
 - (a) an overview of the YCF's policy, procedures, organization, and services.
 - (b) mandatory child abuse reporting laws.
 - (c) behavioral management techniques.
 - (d) fire safety, including emergency evacuation routes.
 - (e) confidentiality.
 - (f) suicide prevention.
 - (g) emergency medical procedures.
 - (h) report writing including the development and maintenance of logs and journals.
 - (i) youth rights as outlined in ARM [37.97.159](#); and
 - (j) hours required for on the job training.
- (4) Therapeutic group homes must include training on trauma informed care in initial orientation training.
- (5) Orientation training shall be completed and documented before the staff person may count in the youth to awake staff ratio as specified in ARM [37.97.141](#) and [37.97.903](#).
- (6) All direct care staff shall complete the following certification training within six months of hire:
 - (a) the use of de-escalation training and methods of managing youth as described in the provider's policies and ARM [37.97.172](#);
 - (b) first aid and CPR certification; and
 - (c) maintain and update these trainings and certifications as required.
- (7) Direct care staff may not work alone without completing the requirements of (5).
- (8) The YCF shall provide ongoing training for staff to improve proficiency in their knowledge and skills. Training must be a minimum of 20 hours annually thereafter and appropriate for the level of care provided.
- (9) All training must be documented and kept on file for each staff member, administrator, volunteer, and intern.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11; AMD, 2021 MAR p. 1217, Eff. 10/1/21.

37.97.145 ADMISSIONS (1) Each YCF shall admit only those youth for whom it has an operational program and who meet its admissions policies.

- (2) Each YCF shall have a policy for screening all referrals. This policy must include procedures for accepting emergency placements.

- (3) Each YCF shall have and follow written admissions policies and procedures which include but are not limited to the following requirements:
- (a) age, sex, and behavioral and/or emotional needs of youth served;
 - (b) a description of the intake process for youth at admission; and
 - (c) a description of the orientation provided to the youth.
- (4) An initial assessment of the youth's emotional, medical, developmental, social, and behavioral status must be conducted within 24 hours of the youth's admission.
- (5) The admission person or committee shall review all preplacement referral information including a social history and resources to determine the appropriateness of placement, including age and developmental needs of youth accepted into the YCF.
- (6) The YCF's policies and procedures must provide for and encourage a preplacement process with the child and family and may allow exceptions for emergency placements, geographical distances, and youth placed under runaway grant funding. The referring parties should be encouraged to assist with these arrangements.
- (7) Placements may only be accepted from parents or agencies authorized by law to place children.
- (8) The admissions policy may not limit contact with the youth's approved family members.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.146 PLACEMENT AGREEMENTS (1) When a youth is admitted to a YCF, the YCF shall enter into a written placement agreement with the placing agency and/or parents or guardian, except when the facility has an existing written agreement with the placing agency that meets the requirements in (2).
- (2) The placement agreement must contain the terms of the youth's placement, the responsibilities of the YCF, the placing agency's responsibilities, and when appropriate, the parent's or guardian's responsibilities.
- (3) No youth from out of state shall be accepted into the YCF without the approval of the interstate compact administrator pursuant to Title 41, chapter 4, part 1, MCA.
- (4) Placement agreements do not expressly or implicitly modify or supersede any other agreement between the provider and the department and are not sufficient as written agreements to modify any other agreement between the provider and the department. All modifications of those other agreements must be in writing.
- (5) An exception to the placement agreement requirement may be granted until custody for youth placed under runaway grant funding has been determined.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.147 YOUTH ORIENTATION (1) A YCF shall have written orientation policies and procedures for admission to the YCF. For youth over the age of five, the youth's orientation shall include but is not limited to:
- (a) a procedure for ensuring that each youth receives a personal orientation to the YCF as soon as appropriate, but not later than 24 hours after admission.
 - (b) inventory of each youth's belongings.
 - (c) behavioral expectations.
 - (d) information on privilege systems.
 - (e) discipline policy.

- (f) health and safety procedures.
 - (g) YCF rules.
 - (h) information on the YCF's search policies; and
 - (i) emergency evacuation procedures, including escape routes.
- (2) Documentation that is signed by both the youth and the staff person(s) conducting the orientation must be placed in the youth's file.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11

37.97.148 CASE PLAN (1) Except for therapeutic group homes, each YCF must develop a case plan for each youth in care. A case plan is a specific plan for providing care, treatment, and services of any kind to a specific youth.

(2) The case plan must include but is not limited to the following:

- (a) the youth's physical and medical needs.
- (b) behavior management issues.
- (c) mental health services when appropriate.
- (d) the service goals with corresponding time frames, placement goals, discharge plans, estimated discharge date, and follow-up services.
- (e) education plans.
- (f) measurable goals and objectives.
- (g) the responsibilities of the youth, staff, and custodial parent or guardian for meeting the goals and objectives; and
- (h) identification of all treatment members.

(3) The initial case plan must be developed with the youth (over the age of 5), parent/legal guardian, and placing agency and within seven business days after admission.

(4) The case plan must be reviewed and updated at least every three months from the day of development, be conducted face-to-face with the youth, and document the input of the youth (over the age of 5), parent/legal guardian, and placing agency.

(a) If the parent/legal guardian or placing agency are unable to attend face-to-face, telecommunication must be provided at a time that is convenient for the parent/legal guardian and placing agency.

(5) A copy of the signed case plan must be provided to the placing agency and parent or guardian within seven days of developing and updating the plan.

(6) Therapeutic group homes must meet the treatment plan requirements in ARM [37.97.907](#).

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11; AMD, 2021 MAR p. 1217, Eff. 10/1/21.

37.97.152 PHYSICAL CARE (1) Every youth shall have access to the services of at least one licensed health care professional as defined in [50-5-101](#), MCA.

(2) Medical, dental, psychiatric, psychological care, and counseling services will be arranged for youth as needed.

(3) If a youth has not received a complete physical examination within a year prior to placement, within 30 days after admission to the facility the YCF shall arrange for the youth to have a complete physical examination and annually thereafter.

(4) If a youth has not had a dental examination within a year prior to placement, the YCF shall arrange for the youth to have a dental examination within 90 days after admission. All necessary dental work must be done and checkups must be arranged for the youth at least annually.

(5) If a youth has not had an eye examination within a year prior to placement, the YCF shall arrange for the youth to have an eye examination within 90 days after admission. All necessary checkups must be arranged for the youth at least annually.

(6) Provisions for treatment of diseases, remedial defects or deformities, and malnutrition must be made by the provider immediately upon the licensed health care professional's recommendation with notification to the placing agency and parent or guardian.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.153 MEDICATION STORAGE AND ADMINISTRATION (1) A YCF shall have and follow written policies and procedures regarding the storage, administration, and disposal of prescription, nonprescription, and over-the-counter medication.

(2) All medication must be kept in a locked nonportable container, stored in its original container with the original prescription label. For medications taken on outings, all medication must be in the possession of a staff member trained to assist with the self-administration of medications.

(3) Staff who assist with self-administration must be trained to assist in proper medication procedures. Training must be documented in each staff member's personnel file.

(4) All prescription medications must be ordered by licensed health care professionals working within the scope of their practice. All prescription orders must contain the dosage to be given.

(5) Psychotropic medication is prohibited unless a licensed health care professional working within the scope of that professional's practice determines that the medications are clinically indicated.

(6) Under no circumstances may psychotropic or any other prescription or over-the-counter medication be given for disciplinary purposes, for the convenience of the staff, or as a substitute for other appropriate treatment services.

(7) A written record of all medications self-administered by a youth must be maintained. The record must include but is not limited to:

(a) youth's name.

(b) name and dosage of the medication.

(c) the date and time the medication was taken or was refused by the youth.

(d) name of the staff member who assisted in the self-administration of the medication; and

(e) documentation of any medication errors, results of errors, and any effects observed.

(8) Prescribed medication may not be stopped or changed in dosage or administration without first consulting with a licensed health care professional. Results of the consultation must be recorded in the youth's record. The licensed health care professional shall document in writing any changes to medication. This documentation must be kept as part of the youth's case record.

(9) Placing workers, parents, or custodial guardians must be notified of all medications prescribed to youth including medication changes.

(10) All unused and expired medication must be properly disposed of and documented in the youth's case record.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.154 CARE AND GUIDANCE (1) A YCF shall provide to each youth sufficient staff to ensure:

- (a) appropriate care, supervision, safety, treatment, and guidance.
 - (b) opportunities for educational, social, and cultural growth through suitable reading materials, toys, activities, and equipment; and
 - (c) opportunities to associate with peer groups in school and community settings.
- (2) A YCF shall ensure cooperation with the placing agency in:
- (a) participation in case conferences; and
 - (b) arranging for contact with each youth's family unless there are documented safety reasons for restricting contact.
- (3) When the placement has been made by the parent, the provider shall be responsible for assisting with referral for support services.
- (4) The provider shall assist the youth and, when appropriate, the youth's family in preparing for the youth's discharge from the YCF.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.155 Nutrition (1) A YCF shall provide for observe three regular, well-balanced meals per day, and snacks. The meals and snacks must be appropriate to the nutritional needs of the youth and must include the four basic food group requirements.
- (2) Special diets must be provided for youth as ordered in writing by a licensed health care professional. Such orders must be kept on file by the YCF.
- (3) Copies of menus of the food actually served must be kept on file for one month and be available for inspection.
- (4) All food must be transported, stored, covered, prepared, and served in a sanitary manner.
- (5) Use of home canned products is prohibited unless the product has been commercially approved.
- (6) Hands must be washed with warm water and soap before the handling of food.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW; 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.156 PERSONAL NEEDS (1) The YCF shall assure that each youth has clothing suitable to the youth's age and size and comparable to the clothing of other youth in the community.
- (2) Youth shall have some choice in the selection of their clothing.
- (3) A YCF shall provide necessary supplies and train youth in personal care, hygiene, and grooming.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.159 YOUTH RIGHTS (1) A YCF 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) freedom from abuse, neglect, and unnecessary physical restraint.
 - (b) educational services in accordance with Montana state law, if the YCF operates during the school year.
 - (c) recognition and respect in the delivery of services.
 - (d) receive care according to individual need.
 - (e) personal privacy, when it is not contrary to the treatment and safety of the youth.

- (f) family contact by mail and phone, as long as the contact is not contrary to the treatment and safety needs of the youth; and
 - (g) consideration of the youth's opinions and recommendations when developing the youth's case plan with documentation of the youth's input.
- (2) The YCF shall have a youth grievance policy and procedures.
 - (3) The program shall review the youth's rights policy with the youth at the time of admission. The youth and staff reviewing the policy shall sign a statement acknowledging the review. The statement must be maintained in the youth's record.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.160 RELIGION AND CULTURE (1) The YCF shall have written policies and procedures on how the youth's individual religious and cultural beliefs will be addressed.
- (2) The YCF shall provide youth with a reasonable opportunity to practice their respective religions. Youth must be permitted to have reasonable access to religious materials of their choice. If reasonable access is denied, the YCF must have documentation of the specific reasons for the denial.
 - (3) The YCF shall document its efforts in providing opportunity and encouragement to each youth to identify with the youth's cultural heritage.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.161 PRIVACY AND INDIVIDUALISM (1) A YCF shall allow youth to have privacy.
- (2) A YCF shall provide a separate bed, separate storage space for clothing and personal articles, and a place for each youth to display socially appropriate creative works and symbols of the youth's identity.
 - (3) Each youth must be provided with access to a quiet area where the youth can be alone when appropriate.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.162 MONEY (1) Money earned by a youth or received as a gift or allowance must be part of the youth's personal property and accounted for separately from the YCF funds.
- (2) If the YCF is partly supported by institutional production on a commercial basis, the YCF shall comply with state and federal child labor and minimum wage laws.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.163 YOUTH TRAINING AND EMPLOYMENT (1) For youth age 16 and older a YCF may assist in:
- (a) preparing youth for economic independence.
 - (b) referring youth to the appropriate independent living program; and
 - (c) opportunity to obtain the skills necessary for employment as determined to be appropriate to meet the individual's needs. Such skills include but are not limited to:
 - (i) completing applications.
 - (ii) personal appearances for employment situations.

- (iii) attitudes toward employment; and
- (iv) interviewing for jobs.

(2) A YCF shall distinguish between tasks which youth are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training. Youth in care may not be used as employees of the YCF without prior approval of the department.

(3) Youth may be given age appropriate, nonvocational work assignments within the youth's capabilities as a constructive experience. The work assignment shall comply with all state and federal labor laws.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.164 EDUCATION (1) A YCF shall provide access to an educational program appropriate to the needs of each youth and comply with state school attendance laws.

(2) A YCF licensed as a youth shelter care facility shall assure that each youth is offered an appropriate educational program and make a reasonable effort to comply with state school attendance laws.

(3) The youth shelter care facility shall provide a day program plan for youth who will not be enrolled in the school system.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.165 RECREATION (1) The YCF may have an on-grounds recreation program that is operated by the YCF's staff. However, when available, the YCF shall provide the youth access to community recreation and cultural events when appropriate to the youth's needs, interests, and abilities.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.170 TIME-OUT (1) A YCF must develop a written time-out policy and procedures which clearly provide:

- (a) length of time the youth may remain in time-out which must be age appropriate.
- (b) guidelines for staff observation of the youth when in time-out.
- (c) documentation required for each time-out that is directed by staff.
- (d) purpose of time-out; and
- (e) staff training pertaining to the use of time-out.

(2) Staff may direct a youth to time-out 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.

(3) Time-out may not be used as punishment.

(4) Youth placed in time-out must be reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.171 BEHAVIOR MANAGEMENT POLICIES (1) A YCF shall have and follow written behavior management policies and procedures which include a description of the model, program, or techniques to be used with youth. The YCF shall have policies addressing discipline, therapeutic de-escalation in crisis situations, crisis intervention and physical restraint, 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 behavior management policies and procedures must prohibit:

- (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) 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) physical discipline of any means including but not limited to hitting, shaking, biting, or pinching.
- (g) locked confinement or seclusion.
- (h) withholding of necessary food, water, clothing, shelter, bedding, rest, medications as prescribed, medical care, or toilet use.
- (i) denial of visits or communication with the youth's family as punishment or discipline. Denial of visits or communication with the youth's family must be in collaboration with the youth's placing agent or by court order.
- (j) isolation as punishment; and
- (k) any other form of punishment or discipline which subjects a youth to pain, humiliation, or unnecessary isolation or restraint.

(3) If YCF policies and procedures allow for disciplining a group of youth for actions of one youth, the policies and procedures must clearly prescribe the circumstances and safeguards under which disciplining the group is allowed.

(4) Any staff person involved in or witnessing an infraction of this rule shall complete an incident report clearly detailing the events of the infraction. The report must be completed prior to the end of the involved staff person's shift.

(5) A copy of the incident report shall be placed in the youth's file and the incident must be reported to the licensure bureau, placing agent, and parent or guardian within one working day of its occurrence.

(6) An authorized staff person must be notified of the incident immediately and:

- (a) begin an investigation within 24 hours of incident; and
- (b) complete a written report within two days upon completion of the investigation.

(7) An investigation of the incident may be conducted by the department.

(8) A complete report of any investigation conducted by the YCF must be placed in the provider's records and must be available for inspection by the department or the youth's placing agency.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.172 USE OF CRISIS INTERVENTION AND PHYSICAL RESTRAINT STRATEGIES (1) The YCF shall have written policies and procedures governing the appropriate use of crisis intervention and physical restraint strategies, including but not limited to the use of de-escalation techniques and physical restraint methods if used by provider.

- (2) The crisis intervention and physical restraint strategies policies and procedures must comply with the following:
- (a) Crisis prevention and verbal and nonverbal 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) Physical restraint may only be used to safely control a youth until the youth can regain control of the youth's 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 it is necessary to prevent harm to the youth or others; or
 - (ii) when a youth's behavior puts themselves or others at substantial risk of harm and the youth must be forcibly moved.
 - (c) Physical restraint must be used only until the youth has regained control and must not exceed 15 consecutive minutes. If the youth remain a danger to self or others after 15 minutes, the youth's record must include written documentation of attempts made to release the youth from the restraint and the reasons that continuation of restraint is necessary.
 - (d) Physical restraint may be used only by employees who are documented to be specifically trained in crisis intervention and physical restraint techniques.
 - (e) YCF policies and procedures must prohibit the application of a physical restraint if a youth has a documented physical condition that would contradict 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.
 - (f) YCF policies and procedures must require the documentation of:
 - (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) debriefing completed with the staff and youth involved in the physical restraint.
 - (g) YCF policies and procedures must require that whenever a physical restraint has been used on a youth more than four times within a seven-day period, lead clinical staff members or treatment team members will review the youth's situation to determine the suitability of the youth remaining in the YCF, whether modification to the youth's plan is warranted, or whether staff need additional training in alternative therapeutic behavior management techniques. The YCF shall take appropriate action as a result of the review.
- (3) All TGHs must provide physical restraint training and comply with this rule.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.175 SEARCHES (1) The provisions of this rule apply to all searches by YCF staff of the youth's person and the youth's personal property, including searches of personal correspondence. The facts and circumstances supporting a determination of reasonable cause for the search must be documented in the youth's file.

- (2) Youth may not be subjected to any search except as follows:
- (a) there is reasonable cause to believe that the search will result in discovery of contraband.

- (b) there is reasonable cause to believe that the search is necessary to alleviate a threat of harm to the youth, other youths, or staff; or
 - (c) there is a court order/parole order in the youth's case record allowing for searches.
- (3) The YCF shall adopt policies and procedures relating to searches, including pat-down searches, personal property searches, correspondence searches, urinalysis testing, and breathalyzer testing. The policies must include but are not limited to the following:
- (a) a procedure for documenting all searches, reasons for the search, who conducted the search, and the results of the search.
 - (b) notification of the search policy to placing worker or parent/guardian and youth at time of admission.
 - (c) a protocol for conducting personal property searches when the youth is not available to be present for the search.
 - (d) the consequences to a youth when contraband is located.
 - (e) description of what happens to contraband which has been located; and
 - (f) pat-down searches on youth, which must be conducted by staff persons of the same sex.
- (4) Staff must be trained in the proper protocol for all searches.
- (5) Youth may not be subjected to any of the following intrusive acts:
- (a) strip searches.
 - (b) body cavity searches; or
 - (c) video surveillance except in common areas such as the living room, kitchen, and hallways.
- (6) The YCF shall have adopted policies and procedures prior to use of urinalysis testing for the purposes of determining drug and alcohol use which address, at minimum, procedures for obtaining samples for urinalysis testing, procedures for processing urinalysis testing, and consequence to the youth when a urinalysis is positive.
- (a) Youth may not be subjected to testing unless the testing:
 - (i) has been ordered by a court.
 - (ii) is required pursuant to a case plan for monitoring drug or alcohol use, as approved by the parent, legal guardian, parole officer, or committing agency; or
 - (iii) is requested by the youth's parent or legal guardian.
 - (b) The YCF shall notify the youth's placing worker and custodial parent, or guardian of every urinalysis testing performed on the youth and the results.
 - (c) Staff shall document compliance with YCF policies and procedures in connection with each urinalysis testing.
- (7) The YCF shall have adopted policies and procedures prior to use of breathalyzer testing which address, at minimum, procedures to be used to obtain a breathalyzer test and consequences to the youth when a breathalyzer is positive:
- (a) Breath testing may only be conducted by appropriate law enforcement personnel and probation, parole, or correctional officer.
 - (b) Youth may be not subjected to breathalyzer testing unless the testimony:
 - (i) has been ordered by a court.
 - (ii) is required pursuant to a case plan for monitoring alcohol use, as approved by the parent or legal guardian; or
 - (iii) is requested by the youth's parent or legal guardian, probation, parole, or correctional officer.
 - (c) The YCF must notify the youth's placing worker and parent, or guardian of every breathalyzer test performed on the youth and the results.
 - (d) Staff shall document compliance with YCF policies and procedures in connection with each breathalyzer testing.

- 37.97.176 CONTRABAND (1) A YCF 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 destroyed in accordance with the YCF's contraband policy. When contraband is disposed of, at least two staff members must be present, and the disposal must be documented in the youth's case record.
- (4) If contraband that is not illegal is stored by the YCF, the YCF shall have written policies clearly outlining the storing procedure.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

- 37.97.177 SAFETY (1) A YCF shall have and follow appropriate written policies and procedures on safety and equipment.
- (2) There must be a first aid kit with sufficient supplies available at all times. A first aid kit must:
- (a) be readily available on site as well as in all vehicles used by the YCF.
 - (b) meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used.
 - (c) be reviewed with new staff for contents and use; and
 - (d) be inventoried on a quarterly basis.
- (3) Policies and procedures must be in place for the safe use and storage of fuels and all heat sources, including inaccessibility to youth when not being used under the direct supervision of staff.
- (4) Policies and procedures must be in place for the safe use and storage of poisons and toxins as follows:
- (a) All detergents, chemical sanitizers, and related cleaning compounds and other chemicals must be stored in a safe location that is inaccessible to youth when not being used.
 - (b) Combustible and flammable materials and liquids must be properly stored so as not to create a fire hazard.
 - (c) Poisonous compounds such as insecticide, rodenticide, and other chemicals bearing the EPA toxicity labels "warning" or "danger" must be kept under lock and key.
 - (d) Poisonous or toxic chemicals may not be stored above or adjacent to food, dishes or utensils, or food contact surfaces. The chemicals may not be used in such a manner that they could contaminate these articles.
- (5) Emergency information for youth must be easily accessible at the facility. Emergency information for each youth must include but is not limited to:
- (a) the name, address, telephone number, and relationship of a designated person to be contacted in case of an emergency.
 - (b) the name, address, and telephone number of the youth's licensed health care professional or source of health care.
 - (c) the name, address, telephone number, and relationship of the person able to give consent for emergency medical treatment.
 - (d) documentation of any medical conditions that may affect care including but not limited to known allergies.
 - (e) a signed release for emergency medical treatment from the parent or legal guardian; and

(f) a copy of the youth's current medical insurance card or insurance information when a card is not available to providers.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.178 EMERGENCY AND EVACUATION PLANS (1) A YCF shall have and follow written policy and procedures on management of weapons and potential weapons.

(2) Firearms must not be allowed on the YCF's property.

(3) Firearms must not be in the presence of youth with the exception of law enforcement at any time on or off the YCF's property.

(4) Staff shall supervise youth possession and use of knives, hatchets, other edged tools, or any item which may pose a danger to self or others.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.179 POTENTIAL WEAPONS (1) A YCF shall have and follow written policy and procedures on management of weapons and potential weapons.

(2) Firearms must not be allowed on the YCF's property.

(3) Firearms must not be in the presence of youth with the exception of law enforcement at any time on or off the YCF's property.

(4) Staff shall supervise youth possession and use of knives, hatchets, other edged tools, or any item which may pose a danger to self or others.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.182 FOOD PREPARATION AND HANDLING (1) A YCF shall develop and implement an infection prevention and control program. At a minimum the facility shall develop, implement, and review, at least annually, written policy and procedures regarding infection prevention and control which must include procedures to identify high risk individuals and what methods are used to protect, contain, or minimize the risk to youth and staff.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.184 INFECTION CONTROL (1) A YCF shall develop and implement an infection prevention and control program. At a minimum the facility shall develop, implement, and review, at least annually, written policy and procedures regarding infection prevention and control which must include procedures to identify high risk individuals and what methods are used to protect, contain, or minimize the risk to youth and staff.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.185 ANIMALS AND PETS (1) The YCF may keep household pets and a youth or staff may have a service animal as defined in ARM [37.40.1487](#), and permitted by local ordinance, subject to the following provisions:

(a) pets must be clean and disease-free.

(b) the immediate environment of pets must be kept clean.

- (c) birds must be kept in appropriate enclosures, unless the bird is a companion breed maintained and supervised by the owner; and
- (d) pets that are kept at the facility shall have documentation of current vaccinations, including rabies, as appropriate.
- (2) The administrator or designee shall determine which pets may be brought into the facility. Upon approval, family members may bring pets to visit, if the pets are clean, disease-free, and vaccinated as appropriate.
- (3) Facilities that allow birds shall have procedures that protect residents, staff, and visitors from psittacosis, ensure minimum handling of droppings, and require droppings to be placed in a plastic bag for disposal.
- (4) Prior to admission of companion birds, documentation of the import, out-of-state veterinarian health certificate, and import permit number provided by the pet store or breeder must be provided and maintained in the owner's records. If the health certificate and import permit number are not available, or if the bird was bred in-state, a certificate from a veterinarian stating that the bird is disease-free is required prior to residency. If the veterinarian certificate cannot be obtained by the move-in date, the resident may keep the bird enclosed in a private single occupancy room, using good hand washing after handling the bird and bird droppings until the veterinarian examination is obtained.
- (5) Pets may not be permitted in food preparation, storage, or dining areas during meal preparation time or during meal service or in any area where their presence would create a significant health or safety risk to others.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.186 PHYSICAL ENVIRONMENT (1) A YCF must provide a minimum of ten foot-candles of light in all rooms and hallways, with the following exceptions:

- (a) All reading lamps must have a capacity to provide a minimum of 30 foot-candles of light.
- (b) All toilet and bathing areas must be provided with a minimum of 30 foot-candles of light.
- (c) General lighting in food preparation areas must be a minimum of 30 foot-candles of light.
- (d) Hallways must be illuminated at all times by at least a minimum of five foot-candles of light at the floor.
- (2) Adequate space must be provided for all phases of daily living, including recreation, privacy, group activities, and visits from family, friends, and community acquaintances.
- (3) Youth must have indoor areas of at least 40 square feet of floor space per youth for quiet, reading, study, relaxing, and recreation. The minimum space requirement may not include halls, kitchens, and any rooms not used by youth may not be included in the minimum space requirement.
- (4) A bedroom must contain at least 50 square feet of floor space per person. Bedrooms for single occupancy must have at least 80 square feet.
- (5) The maximum number of youth per bedroom must not exceed four. The bedrooms must have floor to ceiling walls.
- (6) The YCF must provide:
 - (a) at least one toilet for every four residents; and
 - (b) one bathing facility for every six residents.
- (7) All resident rooms with toilets or shower and bathing facilities must have an operable window to the outside or must be exhausted to the outside by a mechanical ventilation system.
- (8) Each resident must have access to a bathroom without entering another resident's room, the kitchen, or dining areas.

(9) Facilities licensed prior to September 23, 2010, that did not meet the requirements of (8) are allowed to maintain the existing bathroom access through resident room, kitchen, or dining areas. However, if future remodeling or additions are to be made to these structures, the remodeling or additions must comply with current standards.

(10) Hot and cold water must be available in the YCF. Water temperatures for hot water must be limited to 120°F or below.

(11) For adequate housekeeping the YCF must ensure that:

(a) the building and grounds are free, to the extent possible, of harborage for insects, rodents, and other vermin.

(b) the floors, walls, ceilings, furnishings, and other equipment is clean and in good repair, free of hazards, and offensive odors.

(c) cleaning equipment and supplies are provided in sufficient quantity to meet the housekeeping needs of the facility; and

(d) a maintenance policy and schedule, which describes the regular maintenance of the facility, is adhered to.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11; AMD, 2015 MAR p. 756, Eff. 6/12/15.

37.97.187 WATER SUPPLY (1) An adequate and potable supply of water must be provided.

(2) Before a license may be issued, a YCF using an individual, shared, or multiple user water supply must submit the following to the department or its designee:

(a) satisfactory coliform bacteria and nitrate test results as specified in ARM Title 17, chapter 38, subchapter 2; and

(b) the results of an onsite sanitary survey of the water supply system to detect sanitary deficiencies.

(3) A supplier of an individual, shared, or multiple user water supply shall conduct a coliform bacteria test of the system at least twice a year with one sample collected between April 1 through June 30 and the second sample collected between August 1 through October 31, and conduct a nitrate test of the system at least once every three years. Water tests must be analyzed at a certified laboratory. A supplier shall keep sampling result records for at least three years.

(4) A public water supply system must be constructed and operated in accordance to current applicable laws as regulated by the Montana Department of Environmental Quality.

(5) Nonpotable water sources must be marked "not for human consumption".

(6) Plumbing must be installed and maintained in a manner to prevent cross connections between the potable water supply and any nonpotable or questionable water supply or any source of pollution through which the potable water supply might become contaminated. The potable water system must be installed to preclude the possibility of backflow. A hose may not be attached to a faucet unless a backflow prevention device is installed.

(7) A water supply system is determined to have failed and requires treatment, replacement, repair, or disinfection, when the water supply becomes unsafe, or when it exceeds the maximum contaminant levels specified in ARM Title 17, chapter 38, subchapter 2. A water supply system is inadequate when it is found to be less than 20 psi measured at the extremity of the distribution line during the instantaneous peak usage.

(8) Extension, alteration, repair, or replacement of a water supply system or development of a new water supply system must be in accordance with all applicable state and local laws.

(9) Bottled and packaged potable water must be obtained from a licensed and approved source and be handled and stored in a way that protects it from contamination.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.188 SEWAGE SYSTEM AND SOLID WASTE (1) An adequate and safe wastewater system must be provided for conveying, treating, and disposing of all sewage. Immediate measures must be taken to alleviate health and sanitation hazards caused by wastewater at the YCF when they occur.

(2) All sewage, including liquid waste, must be disposed of by a public sewage system approved by the Montana Department of Environmental Quality or by a sewage treatment and disposal system constructed and operated in accordance to applicable state and local laws.

(3) A wastewater system has failed and requires replacement or repair if any of the following conditions occur:

(a) the system fails to accept, treat, or dispose of wastewater as designed.

(b) effluent from the wastewater system contaminates a potable water supply or state waters; or

(c) the wastewater system is subjected to mechanical failure, including electrical outage, or collapse or breakage of a septic tank, lead line, or drain field line.

(4) Extension, alteration, replacement, or repair of any wastewater system must be done in accordance with all applicable state and local laws.

(5) Mop water or soiled cleaning water may not be disposed of in any sink other than a mop or utility sink or a toilet.

(6) Solid waste must be collected, stored, and disposed of in a manner that does not create a sanitary nuisance. Solid waste must be removed from the premises at least weekly to a licensed solid waste disposal facility.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.190 FINANCES (1) Each YCF shall:

(a) provide a sound financial plan to carry out its defined purposes and provide proper care for children.

(b) provide documentation of sufficient funds or resources for its first year of operation and be able to furnish evidence to that effect.

(c) maintain financial records of all receipts, disbursements, assets, and liabilities; and

(d) upon request by the department, have all accounts audited by an independent auditor who is not regularly employed by the YCF or a member of the YCF's board of directors.

(2) Financial responsibility for medical and dental treatment must be established prior to placement and must usually lie with the parent, guardian, custodian, and/or referring party of the child.

(3) The YCF must show proof that professional or general liability insurance is in effect for the protection of the YCF, staff, and youth.

History: 52-2-111, 52-2-603, 52-2-622, MCA; IMP, 52-2-113, 52-2-603, 52-2-622, MCA; NEW, 2011 MAR p. 387, Eff. 3/25/11.

37.97.191 FIRE SAFETY (1) The department adopts and incorporates by reference the occupancy designation/classification group R-3 of the International Fire Code (IFC), 2012, which sets forth the fire safety regulations that apply to youth care facilities. A copy of the IFC definitions and

requirements for R-3 occupancies may be obtained from the Fire Prevention and Investigation Section of the Department of Justice, 2225 11th Avenue, Helena, Montana, 59620.

- (2) The state fire marshal must annually certify a YCF for fire and life safety.
- (3) Smoke detectors approved by a recognized testing laboratory must be located on each level of the facility, at the top of stairways, in any bedroom, in any hallway leading to bedrooms, and in areas requiring separation as set forth in IFC Section 907.2.11.
- (4) Carbon monoxide detectors installed in facilities with fuel-burning appliances or with attached garages must be installed per manufacture recommendations according to Section 1103.9, IFC.
- (5) A workable portable fire extinguisher, with a minimum rating of 2A10BC, must be located on each floor of the facility. Fire extinguishers must be:
 - (a) mounted on the wall not to exceed five feet from handle to floor and no closer than four inches from the floor.
 - (b) no more than 75 feet from each other.
 - (c) inspected, recharged, and tagged at least once a year by a person certified by the state to perform such services; and
 - (d) not obstructed or obscured from view.
- (6) Facility staff must check smoke detector batteries at least once each month and the batteries must be replaced at least once each year. Documentation, including the date and the signature of the person checking or replacing the batteries, must be maintained at the facility.
- (7) The staff must be trained in the proper use of facility fire extinguishers and documentation of the training must be maintained at the facility.
- (8) Staff, at the time of hire, and residents, at the time of admission, must be instructed in the facility's fire evacuation procedure. The fire evacuation procedure must be posted in a conspicuous place in the YCF.
- (9) All exits must be clear and unobstructed at all times.
- (10) Paint, flammable liquids, and other combustible material must be kept in locked storage away from heat sources or in outbuildings not used by the youth.
- (11) The YCF must conduct at least four fire drills annually, no closer than two months apart, with at least one drill occurring on each shift. Drill observations must be documented and maintained in the facility files for at least two years. The documentation must include:
 - (a) location of the drill.
 - (b) identification of participating staff.
 - (c) problems identified during the drill; and
 - (d) steps taken to correct such problems.

History: 52-2-111, 52-2-113, 52-2-603, 52-2-622, MCA; IMP, 52-2-111, 52-2-603, 52-2-622, MCA; NEW, 2015 MAR p. 756, Eff. 6/12/15.