

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 11 CHILD WELFARE SERVICES PROGRAMS

CHAPTER 1627

LICENSING OF CHILD-CARING INSTITUTIONS

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Historical Note: This chapter is based substantially upon chapter 17-894. [Eff 7/19/82; am 9/30/85; am 3/20/87; am and comp 7/30/92; am 9/16/96, R **DEC 09 2010**]

§17-1627-1 Definitions. For the purpose of this chapter:

"Applicant" means any adult person, agency, or organization that makes a written request to the department to be approved as a child-caring institution.

"Certificate of approval" or "license" means the certificate or license issued by the department that authorizes a person, agency, or organization to operate a child-caring institution.

"Child-caring institution" or "group home" means any institution or group home licensed by the department, for the purpose of receiving six or more unrelated minor children for temporary substitute supervision, care, and maintenance apart from their

legal custodians on a twenty-four hour basis for monetary payment. This term shall not apply to any boarding school which is primarily engaged in educational work or to any resource family home, detention facility, forestry camp, training school, or facility operated primarily for the detention of delinquent children. This term shall also exclude public child care institutions that accommodate more than twenty five children.

"Child-placing organization" means any licensed person, agency, or organization, except family court and the department, engaged in the assessment, placement, and supervision of children in foster care and which has been delegated the authority by the department to approve resource family homes and adoptive homes under its supervision.

"Children" means persons under eighteen years of age.

"Criminal history record check" means an examination of an individual's criminal history record through fingerprint analysis and name inquiry into state and national criminal history record files, including, but not limited to, the files of the Hawaii criminal justice data center; provided that the information obtained shall be used exclusively for purposes under this chapter and shall be subject to applicable federal and state laws and regulations.

"Department" means the department of human services.

"Director" or "executive director" or "superintendent" means the person responsible for the administration of the institution.

"Discipline" means an educational and training process to help a child understand and adopt socially accepted behavioral standards.

"Foster care" or "out-of-home care" means placement which is apart from the child's legal custodian which provides twenty-four hour parenting care, including, but not limited to, a licensed relative's home, a licensed resource family home, or a licensed child-caring institution.

"Legal custodian" means the child's parent(s),

permanent custodian(s), legal guardian(s), or other entities that have legal and physical custody of the child.

"Professional services" means the services of dentists, dieticians, physicians, psychiatrists, psychologists, nurses, and social workers.

"Prospective employee" means a person seeking employment in a child-caring institution for the first time in the State.

"Rehire" means a prospective employee of a child-caring institution who is seeking to be employed in a child-caring institution following termination of employment of more than six months and who has been out of the State during this break in employment.

"Resource family home" or "resource home" means a home in which up to five minor children, or a family sibling group of six or more minor children, are received for care and maintenance apart from their legal custodians, on a twenty-four basis for fee or charge and which has met the state certification requirements.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-16)

§17-1627-2 Penalty. Violation of this chapter shall be punishable by a fine of not more than \$200.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17)
(Imp: HRS §346-17)

§17-1627-3 Severability. If any section, subsection, paragraph, subparagraph, or clause of this chapter, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this chapter, or the application of this chapter to other persons or circumstances, shall not be affected.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17)
(Imp: HRS §346-17)

§17-1627-4 Exceptions. Exceptions to the provisions of this chapter shall be made at the discretion of the department. [Eff **DEC 09 2010**]
(Auth: HRS §§346-14; 346-17) (Imp: HRS §346-17)

§17-1627-5 Savings clause. Existing child-caring institutions licensed by the department shall continue to operate for the term of the institution's certificate of approval and shall be required to qualify under this chapter thereafter, except where prohibited by federal or state statutes.
[Eff **DEC 09 2010**] (Auth: HRS §346-17) (Imp: HRS §346-17)

SUBCHAPTER 1

CERTIFICATE OF APPROVAL

§17-1627-6 Application. (a) Any person, agency, or organization desiring or planning to operate a child-caring institution shall be required to submit a written application to the department for a certificate of approval.

(b) The department shall disqualify applicants who in this State or elsewhere have for cause been denied a license, had a license not renewed, or had a license revoked to operate a child-caring institution, a child-placing organization, a resource family home, a nursing home, boarding home, day care, or adult family home or any other facility for the care of children or adults.

(c) The following information shall also be submitted to complete the application:

- (1) Location and building plans (see sections 17-1627-20 and 17-1627-21);
- (2) Written statement of the institution's program and of the services to be provided by the institution (see section 17-1627-16);

- (3) Statement of legal authority.
 - (A) In the case of incorporated organizations, the legal authority shall include:
 - (i) A copy of the charter and articles of incorporation;
 - (ii) A copy of the by-laws; and
 - (iii) A current list of officers, directors, and trustees, showing terms of office.
 - (B) In the case of individuals, partnerships, or unincorporated organizations, the legal authority shall include the names of the individuals who are fully responsible for any debts or obligations incurred by the institution;
- (4) A copy of the personnel policies;
- (5) A list of employees, by name, position, and date of employment;
- (6) A copy of the estimated annual budget for the coming year;
- (7) A copy of the institution's policies on admission, program, care of children, and discharge; and
- (8) Verification that requirements of the department of education are met when a regular school program is conducted in the institution.

(d) Applicants shall submit statements signed under penalty of perjury indicating whether they were ever convicted of a crime and provide consents to conduct criminal history clearances, child abuse and neglect (CA/N) registry checks, background, employment, and any other checks as may be required by the department, state, or federal laws. Such information and consents shall be given upon forms supplied by the department. Any applicant who refuses to provide consents shall not be considered for licensure.

(e) The department shall conduct criminal history clearances, child abuse and neglect (CA/N)

registry checks, background, and employment checks and any other checks deemed necessary on all applicants. The applicant, in turn, shall conduct these checks and any other checks deemed necessary, on prospective employees.

(f) The department shall review the application, including but not limited to, the applicant's qualifications, to determine that the proposed services and program meet the requirements of this chapter, and that the services are needed in the community.

(g) The department shall dispose of the application within ninety calendar days upon receipt of the complete application, provided that all criminal history clearances, child abuse and neglect (CA/N) registry checks, background, and employment checks and verifications required in section 17-1627-7(b) have been received by the department.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-7 Study. (a) The department shall study the application and other required documents to determine whether the institution meets the requirements of this chapter.

(b) The applicant shall show verification that the institution meets the regulations of the fire department, and the city and county building department.

(c) Requirements of the department of education shall be met when a regular school program is conducted in the institution.

(d) Reports of the study shall be kept on file by the department. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-8 Issuance of the certificate of approval. (a) When the department determines through the study that the applicant is in satisfactory compliance with the requirements of this chapter, the

department shall approve the application and shall issue a certificate of approval.

- (b) The certificate of approval shall:
 - (1) Be valid for one year; or
 - (2) Be valid for two years when the following criteria are met:
 - (A) The institution has been in operation for at least one year as a licensed child-caring institution by the State;
 - (B) The institution fully complied with all licensing requirements;
 - (C) There were no major changes in the institutional structure or in policies and procedures relating to foster care;
 - (D) The applicants and employees of applicants have no criminal history, employment history, or background which poses a risk to the health, safety, or well-being of children; and
 - (E) There were no complaints by the workers, clients, or the public within the past year which were investigated and confirmed and which require closer monitoring by the department;
- (3) Specify the name and address of the institution to which the certificate is issued, the number, sex, and age of children for whom the institution is licensed to give care, and any exceptions;
- (4) Be non-transferable; and
- (5) Be conspicuously posted on the premises of the institution.
- (c) The certificate of approval shall be invalid

when:

- (1) The person or organization to whom the certificate of approval was issued ceases to operate the child-caring institution;
- (2) There is a change of location;
- (3) There is a change in function; or
- (4) There is an increase beyond the maximum number or a change in the sex and age of children from that specified on the

certificate of approval.

(d) After the issuance of the certificate of approval, the applicant shall ensure that new employees and rehires comply with section 17-1627-6(e) within five working days of employment.

(e) The department may request the institution terminate the employment of an employee who has a criminal history, employment history, or background which poses a risk to children in care. Any such request shall be in writing and shall specify the criminal history, employment history, or background information that indicate a risk to children.

(1) The institution shall notify the department, within seven working days of receipt of the request, what action was taken. Such notification shall be in writing and shall state the reasons for the decision.

(2) Refusal to terminate the employment of an employee when requested by the department may result in immediate revocation or suspension of a certificate of approval.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-9 Renewal of certificate of approval.

(a) At least ninety calendar days prior to the expiration of the certificate of approval, the institution shall apply for renewal of the certificate of approval by submitting a complete application including the following:

- (1) Current list of legal proprietors.
Incorporated organizations shall submit a current list of officers, directors, trustees, or advisory board members, showing terms of office;
- (2) Current list of all employees, showing duties, classification, salary range, and the educational background, training, and experience of each professional staff;
- (3) Report of the number of children served in the past year by age, sex, and period of

residence; and list of the current child population by age, sex, and date of placement;

- (4) Copy of the latest audited annual financial statement prepared by someone licensed in the State to provide auditing services;
- (5) Copy of the estimated annual budget for the coming year or the estimated biennial budget for the next two years if the institution is certified for two years;
- (6) Report of major changes in program or facilities made within the past year or two years if the institution is certified for two years;
- (7) Copy of any amendment to the articles of incorporation or by-laws of incorporated organizations where the authority, purpose, or function has changed; and
- (8) Statement of any proposed changes in the program or facilities.

(b) Name inquiry into the state criminal history files and child abuse and neglect (CA/N) registry shall be conducted annually for the applicant and all employees unless the institution has been licensed for two years, in which case a name inquiry check shall be made a year after the initial criminal history check and biennially thereafter. The applicant and all employees shall provide consents to the department to conduct such checks within five working days of the employment anniversary date or the anniversary date of the last consent to a criminal history check and child abuse and neglect (CA/N) registry check.

(c) The department shall study the application for renewal to determine whether the institution meets the requirements of this chapter.

(d) The department shall dispose of the application for renewal within ninety calendar days of receipt of the complete application, provided that all criminal history clearances, child abuse and neglect (CA/N) registry checks, and verifications required in section 17-1627-7(b), have been received by the department.

(e) When the department determines from the study that the institution meets the requirements of this chapter, a certificate of approval shall be issued according to section 17-1627-8.

(f) When the department determines from the study that the institution does not meet the requirements of this chapter, a certificate of approval shall be denied according to section 17-1627-11. The institution shall notify the child-placing organization or legal custodians responsible for the children placed in the institution, and the institution shall not accept any further placements until such time as a certificate of approval is issued in accordance with this chapter. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §§346-16, 346-17)

§17-1627-10 Reporting changes. The child-caring institution shall immediately report to the department, any changes that may impact the institution's certificate of approval or its ability to carry out the requirements of this chapter. These changes include, but are not limited to, changes in program, services, organizational structure, location, personnel, or criminal history or background of the applicant or employees. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-11 Denial of certificate of approval.

(a) A certificate of approval shall not be issued when the study indicates that the institution does not meet the requirements of this chapter.

(b) The department shall send the institution a written statement giving the reasons for denying issuance of a certificate of approval. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-12 Provisional certificate of approval.

(a) The department may issue a provisional certificate of approval for ninety calendar days when

an agency:

- (1) Is unable to comply with all the requirements for licensure because of circumstances beyond its control and the areas of non-compliance:
 - (A) Do not pose a risk to the health, safety, or well being of children; and
 - (B) Are expected to be corrected within ninety calendar days from the date the department notified the agency; or
 - (2) Has an application that was not disposed of by the ninetieth day of the receipt of the application, documents, and verifications required in section 17-1627-7(b).
- (b) The provisional certificate of approval may be renewable for periods no longer than ninety calendar days until the agency meets all requirements or until the department makes a final disposition on the application. [Eff **DEC 09 2010**] (Auth: HRS §346-17) (Imp: §346-17)

§17-1627-13 Revocation and suspension. (a) The department may revoke the certificate of approval when the institution fails to comply with the requirements of this chapter during the period covered by the certificate.

- (1) The department shall notify the institution in writing, stating the specific reasons for the revocation and the rules supporting the action.
 - (2) This written notice shall be mailed at least ten calendar days prior to the revocation date.
- (b) The department may suspend the license for up to sixty calendar days if the violations can be corrected within sixty days and there are no immediate risks to the health, safety, or well-being of the children the institution serves.
- (1) The institution shall be notified in writing, at least ten calendar days prior to the start of the suspension date, of the

- specific reasons for the suspension, the necessary corrections that must be made, and the rules supporting the action. The notice shall also state that if the institution does not make the necessary corrections during the period of suspension, the certificate of approval shall be revoked.
- (2) If the institution fails to make the necessary corrections within the period of suspension, the certificate of approval shall be revoked by the department and the department shall notify the institution in writing at least ten calendar days before the revocation date. [Eff **DEC 09 2010**]
(Auth: HRS §346-17) (Imp: HRS §346-17)

§17-1627-14 Hearing. (a) Any institution whose certificate of approval is denied, suspended, revoked, or not renewed by the department may request a hearing, in writing, as specified in chapter 17-602.

(b) The written request shall be received by the department within ninety calendar days of the date the department mailed the letter of denial, suspension, revocation, or non-renewal to the institution.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17)
(Imp: HRS §346-17)

§17-1627-15 Confidentiality of licensing records. The provisions of chapter 17-1601 shall apply to this chapter. [Eff **DEC 09 2010**] (Auth: HRS §346-10; 45 C.F.R. §§205.50, 1356.20) (Imp: HRS §346-10)

SUBCHAPTER 2

LICENSING REQUIREMENTS

§17-1627-16 Purpose and services. (a) The purpose or function of an institution shall be clearly

defined in a written statement of services giving the number, sex, ages, and eligibility criteria of children to be accepted for care, the services to be provided, and the geographic area to be served.

(b) Proposed major changes in the organization, function, or program of the institution shall be provided in writing and discussed with and approved by the department at least sixty calendar days before the change is implemented. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-17 Governing authority. Each institution shall have a person or persons in whom the legal governing authority and accountability for the performance of the institution is vested as follows:

- (1) For individuals, partnerships, and unincorporated institutions, the legal governing authority shall be the persons registered as the legal proprietors; and
- (2) For incorporated organizations, the legal governing authority shall be the current officers and board of directors or trustees as designated through the institution's charter, articles of incorporation, constitution, or by-laws. When these documents provide for an advisory board, the institution shall have an advisory board.
[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-18 Financing. (a) Each institution shall show evidence of having adequate resources to finance the operating costs of administration, maintenance, and personnel, and to conduct a program that protects and promotes the safety, health, and well-being of children in accordance with the provisions of this chapter.

(b) Accounts shall be kept by the institution in a form conducive to sound and efficient fiscal management and audit.

(c) Accounts shall be audited once a year by a person or organization licensed by the State to provide auditing services. [Eff **DEC 09 2010**]
(Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-19 Personnel. (a) Each institution shall have written personnel policies covering job classification, hiring practices, salaries and fringe benefits, leaves, staff training and development, and other employment practices.

(b) All personnel shall have the following:

- (1) Ability in relating to, understanding, and working with children;
- (2) Demonstrated ability to provide a positive role model for children;
- (3) Emotional stability and good physical health; and
- (4) Education and experience appropriate for the position with thorough employment and background checks to verify the person's qualifications.

(c) All personnel shall have a physical examination, including tuberculin (TB) clearances no more than one year before being employed. The physical examination shall be given by a licensed physician who shall prepare a written report to be kept on file at the institution, stating that the employee is free from communicable or infectious diseases and has no physical condition that would pose a risk to children and interfere with the employee's ability to perform the job. Thereafter, all staff members with a prior positive skin test or chest x-ray shall have a TB clearance in accordance with the recommendations of the department of health.

(d) Each institution shall establish in writing a classification schedule showing the duties, responsibilities, and minimum requirements of each position.

(e) Salary ranges for each type of position shall be established in writing.

(f) Adequate and comfortable quarters shall be

provided for all staff who are required to live within the institution.

(g) Provisions for staff development shall be made as follows:

- (1) There shall be regular staff meetings and case conferences for all staff members working directly with children; and
- (2) Whenever possible, staff shall be encouraged and allowed to take additional training to increase and improve the staff's efficiency and knowledge about the institution's program. The training may be provided by the institution's staff or by other resources in the community.

(h) The director of the institution shall:

- (1) Be a full-time employee, responsible for the daily over-all management and operation of the institution;
- (2) Be a person who is emotionally stable and mature with sound judgement;
- (3) Be a person who is respected by the employees, children, and the general community; and
- (4) Have the education, training, knowledge, experience, and skills in social services, preferably with a master's degree in social work or related area of study from an accredited school, and at least four years experience in child welfare services.

(i) Each child-care staff member shall:

- (1) Be responsible for general child supervision, crisis management, daily living support, recreational activities, behavioral intervention, and participation in the case planning and assessment process;
- (2) Have education, training, knowledge, experience, and skills in the area of human services, social services, child welfare services, or a related field;
- (3) Have an ability to get along with people and to work as part of an institutional team;
- (4) Demonstrate the ability to serve as a

positive role model for the children and their families; and

(5) Have emotional stability, maturity, and flexibility.

(j) A house parent shall be responsible for not more than sixteen school-aged children. The number of children for whom a house parent is responsible shall be reduced proportionately when the house parent is assigned other duties in addition to serving children.

(k) Provisions for use of professional staff shall be as follows:

(1) Each institution shall use professional services that will help assure proper growth and development of children; and

(2) Persons giving the professional services shall meet the qualifications to be recognized and accepted by the person's own professional organization.

(l) Other staff employed to carry out the everyday housekeeping, maintenance, and administrative functions of the institution shall be hired for their ability to do the job and their ability to relate to and work with children.

(m) Applicants and employees shall be subject to fingerprint checks of the State and national criminal records and shall not have a criminal history record, employment history, or background which poses a risk to children.

(1) Applicants and employees shall not have any of the following:

(A) A felony conviction, at any time, for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(B) A felony conviction, within the last five years, for physical assault, battery, or a drug-related offense.

(2) Convictions of other crimes, the

circumstances of which indicate that the applicant or employee poses a risk to the health, safety, or well-being of children, may be grounds for denial, revocation, or non-renewal of a certificate of approval or a reason to request termination of an employee, according to departmental procedures.

- (3) Except for the felony convictions in paragraph (1), the type of criminal offense, when it occurred and evidence of rehabilitation may be considered in determining whether the individual poses a risk to the health, safety, or well-being of children. A single item of evidence, however, may not be conclusive evidence of rehabilitation.
- (4) An employment history indicating violence, alcohol or drug abuse, and any other violation of employer rule or policy, the circumstances of which indicate that the applicant or employee may pose a risk to the health, safety, or well-being of children, may be grounds for denial, revocation, or non-renewal of a certificate of approval or a reason to request termination of an employee.
- (5) Background information that shows that the individual has been identified as and confirmed to be the maltreater of child abuse or neglect may be a basis for denial, revocation, or non-renewal of certificate of approval or a reason to request termination of an employee. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-20 Location. The institution shall comply with all applicable local zoning ordinances. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-21 Building. The institution shall:

- (1) Submit in advance, to the department, plans for creating a new building, moving into an existing building, or making alterations;
- (2) Comply with all local regulations governing building and other related ordinances;
- (3) Comply with the requirements of the city and county fire department;
- (4) Provide proper facilities for isolation of children who are suspected of having communicable diseases, which are not yet controlled or diagnosed. The facilities shall include a bathroom to be used only by the children in the isolation unit;
- (5) Provide adequate space for study. Suitable chairs and desks located in a well-lighted area shall be available for each child. When there is insufficient natural light, adequate artificial light shall be provided;
- (6) Provide office space for administrative workers, caseworkers, and other staff members as appropriate;
- (7) Provide a dining room, which is clean, adequately furnished, and large enough to comfortably accommodate both children and staff;
- (8) Provide adequate kitchen facilities for the proper preparation, storage, serving and clean up of meals;
- (9) Provide adequate facilities for laundering. Facilities shall include a separate room, proper light, ventilation, and drainage. Hot and cold running water shall be available;
- (10) Provide bedrooms that are safe, well lighted, and well-ventilated and that have adequate space for each child;
- (11) Provide bathrooms that have sanitary flush toilets, washbasins, and bathing facilities with running hot and cold water;
- (12) Provide a room for the children to gather

- during leisure time and an area where children may visit with parents and others and have some degree of privacy;
- (13) Provide outdoor play equipment suitable to the ages of the children. Toys and play equipment shall be safe, clean, kept in good condition, and placed in safe storage when not in use; and
- (14) Provide each child with a storage facility for clothing and personal belongings.
[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-22 Review of licensing requirements.
The department shall review the licensing requirements and standards in this chapter every five years.
[Eff **DEC 09 2010**] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. 1356.21)

§§17-1627-23 to 17-1627-25 (Reserved)

SUBCHAPTER 3

SERVICES TO CHILDREN

§17-1627-26 General. (a) Each institution shall provide and arrange for services and facilities as noted in the institution's statement of services.

(b) The entire program of the institution shall be arranged and conducted in a manner that meets the needs of each child in placement.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17)
(Imp: HRS §346-17)

§17-1627-27 Application procedures. (a) The institution shall state in writing its admission policy and shall receive applications within the limits of this policy.

(b) Children under three years of age shall be excluded from institutional care.

(c) The institution shall state in writing that the agency will not discriminate on the basis of race or religion.

(d) Any established religious practices within the institution shall be discussed at the time of application, and the legal custodian shall express agreement or disagreement with the institution's general plan and exceptions. If the legal custodians do not agree, the child shall not be required to participate in the religious practices of the institution.

(e) There shall be a written agreement between the institution and the legal custodian denoting consent by the legal custodian to the placement.

(f) There shall be a written agreement between the institution and legal custodian regarding the medical care to be given to each child, the method of payment, and consent for medical and hospital care.

(g) There shall be a statement in writing in each child's application as to how the cost of the child's care shall be met, the date payment is due, and items covered by the payment.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17)

(Imp: HRS §346-17)

§17-1627-28 Admission. (a) Admission of children to the institution, except for emergency situations, shall be based on:

- (1) A complete study of the child and family's situation;
- (2) Fulfillment of the requirements of the admission policy;
- (3) An agreement between the child's legal custodian and the institution that the institution may best serve the child; and
- (4) Fulfillment of the following requirements:
 - (A) A physical examination, in accordance with departmental procedures, that includes testing for human

immunodeficiency virus (HIV) infection, acquired immune deficiency syndrome (AIDS), AIDS related complex (ARC), and hepatitis B (with the informed consent of the legal custodian or other authorized entity) when the physician determines that such testing is medically indicated. Information on the HIV status of a child shall be released in accordance with the provisions of chapter 17-1601;

- (B) A report from the physician that indicates the absence of any communicable condition and the presence of any extraordinary health needs; and
- (C) Immunizations and tuberculin (TB) testing in accordance with the department of health recommendations.

(b) For emergency situations where admission cannot be pre-planned, the admission of children shall be based on:

- (1) Fulfillment of the requirements of the admission policy; and
- (2) A health assessment based on observation and history provided by the child or legal custodian. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-29 Health. (a) All children shall receive health supervision and medical care, including:

- (1) Timely and appropriate care when ill;
- (2) Renewals of immunizations and vaccinations;
- (3) Tuberculin clearances in accordance with the recommendations of the department of health;
- (4) Annual physical examinations with necessary follow up on recommendations;
- (5) Monitoring of any chronic medical conditions requiring attention; and
- (6) Dental examinations and appropriate dental care.

(b) Institutional staff shall always be alert in observing signs of illness. The staff shall continually promote desirable health habits and practices and shall encourage good mental and emotional health.

(c) All children shall be given instructions, supervision, and opportunity to establish good health habits.

(d) Basic first-aid supplies shall be kept at the institution.

(e) Sick children shall be kept apart from other children until the condition is diagnosed, treated, or controlled.

(f) Institutional staff shall give children prescription medications only with a physician's prescription or authorization and shall dispense and record the exact amount of any medication prescribed.

(g) A well-balanced diet shall be provided.
[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17)
(Imp: HRS §346-17)

§17-1627-30 Clothing and personal supplies. (a) Clothing shall be clean, well fitting, appropriate to age, sex, individual needs, and comparable to community standards.

(b) Children of school age shall participate in the selection and purchase of their own clothing whenever possible and appropriate.

(c) Each child shall be provided with individual towels, combs, toothbrushes, and other personal essentials.

(d) The child's clothing and personal belongings shall be labeled and shall go with the child when the child leaves the institution. [Eff **DEC 09 2010**]
(Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-31 Education. (a) Unless other plans are indicated and mutually agreed upon before admission, children shall attend school in accordance with the State's compulsory school attendance laws and

shall be provided reasonable educational accommodations depending on the needs of the children.

(b) Institutional staff shall plan with school personnel when there are any problems with the child in school, and shall report to the family or agency placing the child, any serious situations which may require the involvement of the legal custodians or agency.

(c) The institution shall ensure that children are provided with necessary school supplies, school lunches, and other incidentals related to school life.

(d) Regular work assignments within the institution shall be directed toward training and educating children. Work assignments shall not be used as punishment or as a means of reducing operating expenses.

(e) Assignments shall be rotated and children shall share tasks in keeping with individual growth and development. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-32 Religion and culture. (a) The institution shall have a written statement regarding religious practices within the institution.

(b) The institution shall be responsible for providing children with opportunities for religious education and experience not in conflict with the expressed wishes of the person having a right to determine the child's religious practices.

(c) The institution shall recognize, encourage, and support the child's religious beliefs, cultural heritage, and language. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-33 Social life and leisure time. (a) The program shall provide appropriate age and developmental socialization opportunities for the child.

(b) Visits with legal custodians, relatives, or

friends shall be encouraged and opportunities shall be provided for the visits when the visits are in the best interest of the child.

(c) Visitations shall not be used as a means of discipline or reward.

(d) The leisure time needs of the child shall be met by a program that:

- (1) Is flexible, well-rounded, and is appropriate for the child's stage of development;
- (2) Allows the child freedom of choice in selecting leisure time activities;
- (3) Allows the child, where possible, to become an active participant in appropriate community groups; and
- (4) Recognizes the need for the child to be alone at times.

(e) When camping is included in the program, the standards of the American camping association shall be followed. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§17-1627-34 Behavior and discipline. (a)

Discipline shall be constructive and positive and shall be carried out with kindness and understanding. No child shall be subjected to physical discipline or any action which would endanger the child's physical or emotional well-being.

(b) The child's age, intelligence, emotional development, past experiences, and ability to understand and accept limits shall be considered in handling the child's behavior and in determining the method of discipline.

(c) The director shall be ultimately responsible in all matters of discipline and shall have full knowledge of all methods used. The director shall also designate staff members having authority and responsibility to administer discipline.

(d) Rewards and discipline shall be fair and consistent, and the staff shall help the child understand the consequences of the child's behavior.

(e) Visitation with legal custodians shall be a right of the child and shall not be withheld as a form of punishment.

(f) The child shall be counseled or disciplined privately, and not before a group.

(g) Deprivation of meals shall not be used as a means of punishing children.

(h) No child shall be subjected to harsh, injurious, or humiliating disciplinary actions. Confirmation of the use of such method of discipline shall be grounds for suspension or revocation of a certificate of approval in accordance with section 17-1627-13. [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

§§17-1627-35 to 17-1627-38 (Reserved)

SUBCHAPTER 4

ADMINISTRATION OF THE INSTITUTION

§17-1627-39 Records. (a) Each institution shall keep a current register of all children admitted. This register shall be open for inspection by the department.

(b) Each institution shall maintain accurate and up-to-date health records for each child in the institution. The records shall be open to inspection by the department.

(c) At a minimum, the child's record shall include the application for admission, a social study of the family and child, a statement of the person having legal responsibility for the child, verification of the child's age, consent for placement, medical care and hospitalization, an accurate and up-to-date health record, and a report of the child's progress and adjustment in the institution.

(d) The child's record shall be kept confidential, and shall not be released to agencies,

other than to the department for licensing purposes, without consent of the legal custodians.

(e) All records of the institution, including the child's record, shall be released to the department for licensing purposes or for the investigation of a child abuse or neglect allegation or report.

(f) Any information pertaining to a person's human immunodeficiency virus (HIV) infection, acquired immune deficiency syndrome (AIDS), or AIDS related complex (ARC) is subject to stringent confidentiality requirements in accordance with chapter 17-1601.

(g) The institution shall maintain accurate information as to how to contact a child's legal custodian or other responsible person in the event of an emergency. A legal custodian shall be able to contact the institution in emergencies.

(h) The institution shall maintain complete, accurate, and updated personnel files on all employees.

(i) The institution shall keep any additional reports as required by the department.

[Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17)
(Imp: HRS §§346-17, 325-101)

§17-1627-40 Reports to be submitted to the department. Each institution shall submit the following reports in writing to the department:

- (1) Monthly report on the number of children under care according to age, sex, and length of stay;
- (2) Any other special reports as required by the department." [Eff **DEC 09 2010**] (Auth: HRS §§346-14, 346-17) (Imp: HRS §346-17)

3. The repeal of chapter 17-894 and the adoption of chapter 17-1627, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

