

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

RECEIVED
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OFFICE OF THE SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: DHHR - Division of Human Services TITLE NUMBER: 78

CITE AUTHORITY: WV Code §49-2B-4

AMENDMENT TO AN EXISTING RULE: YES NO

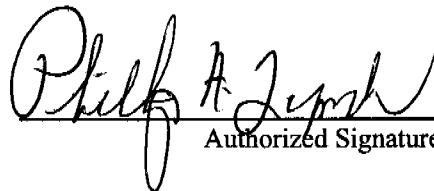
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Day Care Centers Licensing

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

24.30

SCANNED

Brief Summary of the Rule

Licensing Requirements for Day Care Centers

This proposed legislative rule repeals and replaces the existing Regulations for Day Care Centers in West Virginia. The rule contains the requirements which regulate Day Care Centers in West Virginia. The rule assures the health, safety and well-being of children receiving professional child care in Day Care Centers by requiring full compliance with all rule components. Full compliance with the rule results in the issuance of a Day Care Center License.

Statement of Circumstances Which Require the Proposed Rule

Licensing Requirements for Day Care Centers

West Virginia State Code 49-2B-4 requires the promulgation, review and revision of the regulations governing a Day Care Center's License.

The commissioner shall promulgate rules for the purpose of carrying out the provisions of this article, to include the family day care registration program, within one hundred eighty days of the effective date hereof [Acts 1981, c. 44, July 10, 1981] pursuant to the provisions of chapter twenty-nine-a [§ 29A-1-1 et. seq.] of this code: Provided, That any rule promulgated as a result of the enactment of this section in the year one thousand nine hundred eighty-one need not be repromulgated.

The commissioner shall review the rules promulgated pursuant to the provisions of this article at least once every five years, making revisions when necessary or convenient. (1981, c. 44; 1989, c. 26)

The current rule was written and adopted in 1982.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Licensing Requirements for Day Care Centers, 78 CSR I

Type of Rule: X **Legislative** **Interpretive** **Procedural**

Agency: Bureau for Children and Families/Office of Social Services
 Department of Health and Human Resources

Address: 350 Capitol Street, Room 691
 Charleston, WV 25301-3704

1.	Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
		Increase	Decrease	Current	Next	Thereafter
	Estimated Total Cost	\$0	\$0	\$0	\$0	\$0
	Personal Services					
	Current Expense					
	Repairs & Alterations					
	Equipment					
	Other					
	Revenue					

2. Explanation of above estimates:

Current staff will enforce and monitor the proposed rules. Costs will be incurred in printing and distributing the rules to interested parties. Costs are negligible and will be absorbed in current budget. Since these are replacement rules, the costs of regulatory enforcement are covered in the current budget.

3. Objectives of this rule:

The proposed Rule embodies those requirements which regulate Day Care Centers in the State of West Virginia. The Rule assures the health, safety and well-being of all children receiving day care in day care centers in West Virginia by requiring full compliance with all Rule components. Full compliance with the Rule results in the issuance of a Child Care License.

4. **Explanation of Overall Economic Impact of Proposed Rule:**

A. Economic Impact on State Government.

No additional costs will be incurred.

B. Economic Impact on Political Subdivisions; Specific Industries: Specific Groups of Citizens.

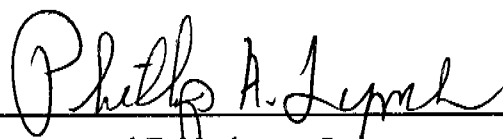
Licensed Day Care Centers, as now, will be required to continue their efforts to provide a higher standard of care for children receiving their service. The rule incorporates best practice standards developed during the nearly twenty years since the rule it replaces was promulgated. Two areas are included in the rule which will result in increased costs for many Centers. The first of these is the requirement for adequate and safe playgrounds. The second is additional training requirements for Center staff.

C. Economic Impact on Citizens/Public at Large.

Some Centers may consider raising the rate for non-certificate children whose care is not paid for by the Department.

DATE: July 26, 2002

Signature of Agency Head or Authorized Representative

A handwritten signature in cursive script, appearing to read "Paul E. Nusbaum". The signature is written in black ink and is positioned above a horizontal line.

Paul E. Nusbaum, Secretary
Department of Health and Human Resources

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: June 17, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Department of Health and Human Resources

State Capitol Complex, Building 3, Room 201, Charleston, WV 25305

Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: Day Care Centers Licensing

1. Authorizing statute(s) citation: WV Code Section 49-2B-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 17, 2002

b. What other notice, including advertising, did you give of the hearing?
Notice of the proposed rule was sent to all currently Licensed WV Day Care Centers, Regional Head Starts, The Gov's Cabinet for Children and Families, WV Dep't of Health, WV Fire Marshal, WV Dep't of Education - Child Nutrition, WV Tobacco Prevention Program - WV Bureau for Public Health, and all Day Care Center Regulation Dev. Workgroup Members. Also, the rule will be posted online on the Office of Social Services web site at <http://www.wvdhhr.org/oss/>.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 18, 2002

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing (be exact):

July 26, 2002

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule (please type):

Martha Barnitt

Regulatory Support/Department of Health and Human Resources

Building 3, Room 201, Capitol Complex

Charleston, West Virginia 25305

(304) 558-5598

(304) 558-7075 Fax

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule (please type):

Peggy Cartus, Director

Fax: 304-232-4773

Tel: 304-232-4411

West Virginia Dep't of Health & Human Resources

P.O. Box 6165

Wheeling, West Virginia 26003

Att'n: Mary Bennington

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the

time and place a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

d. Attach findings and determinations and reasons:

Attached

TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF HUMAN SERVICES

02 JUL 26 PM 4: 42

SERIES 1
DAY CARE CENTERS LICENSING

OFFICE OF THE SECRETARY
STATE OF WEST VIRGINIA

§78-1-1. General.

1.1. Scope. --This rule establishes standards and procedures for the licensure of day care centers under the provisions of W. Va. Code §49-2B-1 et seq., and related federal and state codes. This rule should be read in conjunction with the provisions of W. Va. Code §49-2B-1 et seq. The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.

1.2. Authority. -- West Virginia Code §49-2B-4.

1.3. Filing Date. -- , 20__.

1.4. Effective Date. -- , 20__.

1.5. Repeal and Replacement of Former Rule. -- This legislative rule repeals and replaces "Day Care Centers Licensing," 78CSR1, effective June 1, 1982.

§78-1-2. Application and Enforcement.

2.1. Application. This rule applies to any individual, firm, corporation, association or organization, public or private, that operates day care centers for the care of thirteen (13) or more children on a nonresidential basis.

2.2. Enforcement. This rule is enforced by the Secretary of the Department of Health and Human Resources.

§78-1-3. Definitions.

3.1. Active Media. -- Materials that the child can control while participating in an activity such as taking pictures with cameras, making audio or video tapes, playing video games or working on a computer.

3.2. Adequate Supervision. -- The observation, oversight, and guidance of the individual child or groups of children, by the staff member taking responsibility for the ongoing activity of each child and close enough to intervene, if necessary, to protect the child from harm. Adequate supervision requires the staff member's physical presence, knowledge of the child's program of activities, individual needs, habits, interests and special problems, if any, and acceptance of accountability for the child's or groups of children's care.

3.3. Approval. -- A written certificate issued by the Secretary stating that a center operated by the state meets the requirements for providing specified care for thirteen (13) or more children on a nonresidential basis in accordance with the terms and conditions of the certificate and this rule.

3.4. Approved Training. -- Training that has been approved by the Secretary.

3.5. Approved Training Source. -- A training provider that has been approved by the Secretary.

3.6. CDA (Child Development Associate) Credential. – The national early childhood credential administered by the Council for Early Childhood Professional Recognition.

3.7. Child. – A person less than eighteen (18) years of age.

3.8. Child Abuse and Neglect. – Physical injury, mental or emotional injury, sexual abuse, sexual exploitation, the sale or the attempted sale, or negligent treatment or maltreatment of a child by a parent, guardian or custodian responsible for the child's welfare.

3.9. Child Maltreatment Record Search Release. – A document signed by a center's prospective staff member granting permission to conduct a search of Department records related to his or her involvement in child abuse or neglect allegations, or other investigations documented by the Secretary.

3.10. Continuous Supervision. – A staff member available to assist with child care responsibilities at all times.

3.11. Core Competencies of Early Childhood Educators. – The sets of skills and knowledge that represent common standards of satisfactory practice in the early childhood field in the following essential areas: safety, health, environment, physical and social development, cognitive development, development of creativity, communication, self, and guidance, family, program management, and professionalism.

3.12. Criminal Identification Bureau Record (CIB). – The State Police documentation, as a result of a fingerprinting process, that identifies a person who has been arrested or convicted of criminal behavior.

3.13. Day Care Center. – A facility operated by an individual, firm, corporation, association or organization, public or private, for the care of thirteen (13) or more children on a nonresidential basis, except:

3.13.a. A kindergarten, preschool or school education program that is operated by a public school or accredited by the state department of education;

3.13.b. A child care program that operates with sessions not exceeding four (4) hours per day for a child;

3.13.c. An individual or facility that offers occasional care of children for brief periods;

3.13.d. Summer recreation camps for children held for periods not exceeding thirty (30) days;

3.13.e. Hospitals or other medical facilities that are used primarily for temporary residential care of children for treatment, convalescence, or testing; or

3.13.f. Persons providing day care only for children related to them.

3.14. Department. – The West Virginia Department of Health and Human Resources.

3.15. Designated Activity Area - Room divisions within the center that define limits and reduce distractions. These divisions shall include a temporary wall or physical barrier that is at least three (3) feet in height.

3.16. Direct Supervision. – A qualified staff member physically present in the same room, area, or vehicle with the child or group of children, visually monitoring the interactions of the children.

3.17. Disinfect. – Eliminate virtually all germs from an inanimate surface through the use of chemicals or heat.

3.18. Early Care and Education Field. – An area of study that relates to child development, early childhood from birth to eight (8) years of age, child and family studies, early childhood special education or other early childhood fields.

3.19. Evening Care. – Care provided after seven o'clock (7:00) pm to the child who does not stay overnight.

3.20. Field Trip. – An excursion or special outing away from the site where program activities regularly occur.

3.21. Full-time Director. – A director who is present at the center for a minimum of one-half ($\frac{1}{2}$) of the hours the center is in operation during the week, or thirty-five (35) hours per week, whichever is less.

3.22. GED. – A certificate verifying passage of a test of General Educational Development recognized as equivalent to a high school diploma.

3.23. Governing Body. – The individual owner of the center or the group of persons that have the administrative control and legal authority to set policy and oversee operations of a day care center.

3.24. Group. – A specific number of children, distinct from the larger population of children, who regularly meet together and interact with each other and with one (1) or more specific staff members, in an assigned space. The size of the group and required number of staff are determined by the staff/child ratio set out in this rule.

3.25. Level I Water Activity. – Any activity occurring in or near water eighteen (18) inches deep or less.

3.26. Level II Water Activity. – Any activity occurring in or near water with a depth of more than eighteen (18) inches, including but not limited to, swimming, fishing, rafting, boating, sail-boarding, scuba diving, inner-tubing, canoeing, sailing, water skiing, and water park activities.

3.27. License. – A written certificate issued by the Secretary authorizing a person, corporation, partnership, voluntary association, municipality, county or an agency, to provide specified care for thirteen (13) or more children on a nonresidential basis in accordance with the terms and conditions of the certificate and this rule.

3.28. Licensed Capacity. – The maximum number of children permitted in a center.

3.29. Licensed Health Care Provider. – An individual who holds a license to practice in West Virginia as a doctor of medicine (MD), doctor of osteopathy (DO), physician's assistant (PA), or registered nurse practitioner (RNP).

3.30. Licensee. – The holder of a license or approval obtained from the Secretary to operate a day care center in West Virginia.

3.31. Medication Error. – Means:

3.31.a. Failure to administer a dose of medication; or

3.31.b. The administration of a medication:

3.31.b.1. To the incorrect child;

3.31.b.2. In the incorrect dosage;

3.31.b.3. At the incorrect time, other than within one half (½) hour before or after the scheduled time;

3.31.b.4. In the incorrect form;

3.31.b.5. By the incorrect method or route; or

3.31.b.6. That is incorrect itself.

3.32. Night Time Care. – Care provided to the child who stays during nighttime hours but for less than twelve (12) consecutive hours.

3.33. Parent. – The biological or adoptive parent or parents, a person or persons, or the Department, who has legal custody of a child by birth, or as a result of any contract, agreement, or legal proceedings.

3.34. Passive Media. – Materials that the child cannot control while participating in an activity such as watching television, films and video tapes.

3.35. Person-in-Charge. – The qualified staff member with responsibility for the daily operation of the center at any specific time.

3.36. Plan of Correction. – A written agreement between the Department and a center, approved prior to implementation, that outlines the steps the center shall take to correct deficiencies identified by the Secretary through an inspection or the investigation of a complaint.

3.37. Practicum Contact Hour. – A period of supervised experience recognized for credit toward a credential by an educational institution or similar organization.

3.38. Qualified Staff. – A staff member who meets the requirements under this rule for the position of director, assistant director, lead teacher, teacher, assistant teacher, or teaching assistant.

3.39. Registered Apprenticeship Certificate for Child Development Specialist (). – A nationally recognized credential awarded by the U.S. Department of Labor for the successful completion of a combination of classroom and on-the-job training

3.40. Related Field. – An area of study that may be associated with the early child care and education field, including education, social work, recreation and leisure studies, nursing, counseling, psychology, and administration related to the care and education of the child from birth through twelve (12) years of age as approved by the Secretary.

3.41. Relevant Occupational Experience. – Work that is directly with or on behalf of children from birth through twelve (12) years of age, and their families in areas of supervision, leadership or management; program coordination, development or regulation; training, instruction or technical assistance; or evaluation or research.

3.42. Responsible Adult. – A parent, center staff member, or other adult whom the parent has designated to drop off or pick up the child.

3.43. Sanitize. – Destroy pathogens on food contact surfaces, such as utensils, cups and glasses, through the use of processes involving chemicals or heat that do not pose a threat to food safety.

3.44. Secretary. – The Secretary of the Department of Health and Human Resources or his or her designee.

3.45. School Age Child. – A person who is between five (5) and 13 (thirteen) years of age and is eligible to attend school or is enrolled in school.

3.46. School-Age Program. – Services provided by a center for the care and supervision for school-age children.

3.47. Serious Occurrence. - Serious occurrence is an event that either harms or could potentially harm a child. It may include:

3.47.a. A child dies while in care;

3.47.b. A child is injured while in care to the extent requiring medical care beyond immediate first aid;

3.47. c. A diagnosed reportable communicable disease is introduced in the center;

3.47. d. A medication error occurs;

3.47. e. A legal action involving the child or affecting the operation of the center is brought;

3.47. f. A serious violation of a licensing requirement, such as use of physical punishment or failure to supervise; or

3.47. g. A report is given to Child Protective Services of suspected abuse or neglect of a child at the center.

3.48. Special Activities. – Potentially dangerous organized recreation that require special technical skills, safety equipment, safety regulations, or involve fire or heat-producing equipment. These include, but are not limited to, Level II water activities, archery, gymnastics, karate, horseback riding, bicycling, rock climbing and spelunking, hiking and cookouts.

3.49. Staff Member. – Any center personnel, including substitutes and student interns, whether or not he or she receives compensation.

3.50. Staff/Child Ratio. – A fraction in which the numerator is one (1) qualified staff member or substitute, and the denominator is the maximum number of children that the qualified staff member is permitted to supervise. The number varies according to the ages and developmental levels of the children and the types of activities in which they are participating.

3.51. Statement of Criminal Record. – A signed declaration by a person of his or her arrests or convictions.

3.52. Substitute. – An individual who is present at the center to maintain the staff/child ratio when a qualified staff member is absent.

3.53. Summer Recreation Camp. – A program operated by a center that serves the same group or groups of school age children for more than thirty (30) consecutive days and less than ninety (90) consecutive days, and operates no less than four (4) hours a day and no more than twelve (12) hours a day.

3.54. Support Staff. – Staff who carry out duties not regularly involving the supervision of children.

3.55. Teen Aide. – An individual who is between thirteen (13) and eighteen (18) years of age who works with or without compensation under the direct supervision of a qualified staff member who has a minimum of the qualifications of an assistant director or lead teacher.

3.56. Time-out Period. – A length of time when the child is removed from regular activities as a consequence for specific behavior.

3.57. Training. – Classroom instruction, programs of self-instruction including distance education provided through a variety of media, seminars, workshops, conferences, on-the-job training, and mentoring designed to impart knowledge or skills.

3.58. Type I Center. – A day care center with a capacity of thirty (30) or fewer children.

3.59. Type II Center. – A day care center with a capacity of thirty-one (31) to sixty (60) children.

3.60. Type III Center. – A day care center with a capacity of sixty-one (61) or more children.

3.61. Universal Precautions. – Procedures to be followed for infection control in all situations to prevent the transmission of blood borne germs that may be spread through blood or body fluids that might contain blood.

3.62. Use Zone. – The surface under and around a piece of equipment onto which the child falling from or exiting from the equipment is expected to land.

3.63. Variance. – A written declaration by the Secretary that a certain requirement of this rule may be satisfied in a manner different from the manner set forth in this rule.

3.64. Volunteer. – An individual who provides a direct service to the center for two (2) or more hours a week on a scheduled basis, without compensation, and is eighteen (18) years of age or older.

3.65. Waiver. – A written declaration by the Secretary that a certain requirement may be treated as inapplicable in a particular circumstance.

3.66. West Virginia Training Certificate in Early Care and Education (WVTCECE). – A certificate for completing one hundred twenty (120) hours of training in the core competencies of early childhood education awarded through the WV Child Care Program.

§78-1-4. Licensing Information and Provisions.

4.1. Requirements for a License or Approval.

4.1.a. Before establishing or operating a day care center:

4.1.a.1. A center operator and each member of the governing body shall verify in writing that he or she has read this rule and is responsible for compliance with its requirements.

4.1.a.2. An individual, firm, corporation, association, organization or child welfare agency, other than one operated by the state, shall obtain a license from the Secretary.

4.1.a.3. An agency operated by the state, shall obtain a certificate of approval from the Secretary.

4.1.b. A license or approval is valid for two (2) years from the date of issuance, unless revoked or modified to provisional status.

4.1.c. A license or approval is valid only for the center and its location named in the application and is not transferable.

4.1.d. A licensee shall post the license or approval in a conspicuous place in the center.

4.1.e. If the ownership of a center changes, the new owner shall apply for a license and shall not operate until a provisional license is issued.

4.1.f. Before the location of a center changes, the licensee shall:

4.1.f.1. Inform the Secretary of the planned change at least thirty (30) days prior to the relocation; and

4.1.f.2. Apply for a new license and shall not operate at the new location until a provisional license is issued.

4.2. Application for a License or Approval.

4.2.a. For each center to be licensed or approved, an applicant shall submit a completed application and provide the Secretary with the following information in writing:

4.2.a.1. A floor plan showing the proposed structure or the proposed changes to the existing structure;

4.2.a.2. A positive Fire Safety Inspection Report from the State Fire Marshal;

4.2.a.3. A positive inspection from the county Department of Health, including the Department of Health Child Care Center Inspection Report and the Department of Health Inspection Report for Food Service Establishments;

4.2.a.4. A Pest Management Report as required by the WV Department of Agriculture;

4.2.a.5. Documentation of legal authority from the Secretary of State or a business franchise certificate from the state Department of Tax and Revenue, authorizing that the applicant is organized

to do business in the state and is in good standing;

4.2.a.6. A list of the names of the staff members and the governing body;

4.2.a.7. Job descriptions and the center's plan for meeting staff/child ratios;

4.2.a.8. The qualifications of the director and staff;

4.2.a.9. A plan for orientation training for new staff members;

4.2.a.10. A plan for the ongoing training, supervision, and evaluation of staff members;

4.2.a.11. An operating budget for the first twelve (12) months of operation and documentation of available funds equal to the operating budget projected for the initial six (6) month period;

4.2.a.12. Proof of liability insurance;

4.2.a.13. The center's statement of purpose as described in Section 6.2 of this rule;

4.2.a.14. The center's administrative manual as described in Section 6.3 of this rule;

4.2.a.15. A description of expectations for parent involvement; and

4.2.a.16. A menu review and approval as evidenced by a copy of the Day Care Center Menu Checklist or a written statement from Child and Adult Care Food Program administered by the Office of Child Nutrition in the Department of Education.

4.2.a.17. Any additional information the Secretary deems reasonable in evaluating an applicant.

4.2.b. A licensee shall submit an application for renewal of a license or approval to the Secretary not less than sixty (60) days prior to the expiration of the current license.

4.3. Waivers and Variances.

4.3.a. A center shall comply with the provisions of W. Va. Code §49-2B-1 et seq., the requirements of this rule, terms of its licensure and any plan of correction, unless a written waiver or variance has been granted by the Secretary. A center may not obtain a waiver of the requirements of this rule on the basis of the inability to achieve compliance with the rule.

4.3.b. A center's written request for a waiver or variance from the Secretary shall include:

4.3.b.1. The specific requirement of this rule requested to be waived or varied; and

4.3.b.2. The reason or reasons for seeking a waiver or variance.

4.3.c. A waiver or variance of a specific provision of this rule may be granted by the Secretary only if the following criteria are met:

4.3.c.1. The center has documented and demonstrated that the provision of the rule is inapplicable in a particular circumstance, or that the center complies with the intent of the provision in the rule in a manner not permitted by the rule;

4.3.c.2. The health, safety, and well-being of a child is not endangered; and

4.3.c.3. The waiver or variance agreement contains provisions for a regular review of the waiver or variance.

4.3.d. The waiver or variance agreement is subject to immediate cancellation if a center fails to comply with the stated terms of this rule.

4.4. Amendment of a License or Approval.

4.4.a. A current licensee shall apply for an amendment of a license or approval when:

4.4.a.1. Implementing an additional program or changing a program described in the statement of purpose; or

4.4.a.2. Changing the licensed capacity of the center.

4.4.b. In addition to a completed application, a licensee shall submit to the Secretary in writing:

4.4.b.1. A copy of the center's revised statement of purpose as described in Section 6.2 of this rule;

4.4.b.2. The qualifications of the director and staff members;

4.4.b.3. A copy of the center's revised plan for meeting staff/child ratios;

4.4.b.4. A floor plan reflecting changes to the structure being used by a day care center;

4.4.b.5. A positive inspection report from the State Fire Marshal following any changes to the center's operation and premises;

4.4.b.6. A positive inspection from the county Department of Health, including the Department of Health Child Care Center Inspection Report and the Department of Health Inspection Report for Food Service Establishments;

4.4.b.7. A menu review and approval as evidenced by a copy of the Day Care Center Menu Checklist or a written statement from Child and Adult Care Food Program administered by the Office of Child Nutrition in the Department of Education; and

4.4.b.8. A Pest Management Report as required by the WV Department of Agriculture.

4.5. Issuance of a Provisional License or Approval.

4.5.a. The Secretary may issue a provisional license or approval when:

4.5.a.1. An applicant is unable to demonstrate full compliance with this rule because the center is not fully operational; or

4.5.a.2. An established licensee is temporarily unable to demonstrate compliance with this rule.

4.5.b. A provisional license or approval expires six (6) months after the date of issuance and may be reinstated no more than two (2) consecutive times.

4.5.c. The issuance of a provisional license or provisional approval is contingent upon a center's submission of a plan of correction to the Secretary within a time frame specified by the Secretary.

4.6. Conditions of a License or Approval.

4.6.a. As a condition of issuing a license or an approval the Secretary may:

4.6.a.1. Limit the age, problems, type of behaviors, physical or mental conditions of children allowed admission to a particular center;

4.6.a.2. Prohibit intake of any children; or

4.6.a.3. Reduce the number of children that the center is licensed to receive.

4.7. Denial or Revocation of a License or Approval.

4.7.a. The Secretary may deny a license or approval when the applicant fails to achieve or maintain compliance with the provisions of W. Va. Code §49-2B-1 et seq. and the requirements of this rule.

4.7.b. When the Secretary denies an application or revokes a license or approval, the licensee shall not operate the center without a court order pending administrative or judicial review.

4.8. Order of Closure. When the Secretary finds that the operation of a center constitutes an immediate danger of serious harm to the children served by the center and issues an order of closure that terminates operation, the licensee shall not operate the center without a court order pending administrative or judicial review, as indicated in Section 24 of this rule.

4.9. Grievance Procedure.

4.9.a. A center shall develop and implement a written grievance procedure for families and employees. The procedure shall be written in clear and simple language and shall include at least the following provisions:

4.9.a.1. A center shall ensure that families and employees can express concerns or make complaints without fear of retaliation;

4.9.a.2. The grievance procedure shall ensure due process; and

4.9.a.3. The center shall explain the procedure to parents and employees and obtain written acknowledgment that an explanation of the procedure has been provided.

§78-1-5. Inspection and Investigation.

5.1. Inspection. An applicant or licensee shall permit the Secretary unrestricted access to the center to conduct announced and unannounced inspections of all aspects of the center's operation and premises.

5.2. Investigation. A licensee shall provide all information requested by the Secretary.

5.3. After an inspection or a complaint investigation, the Secretary may require a plan of correction.

§78-1-6. Governance.

6.1. Administrative Structure.

6.1.a. General. The licensee is legally accountable for the operation of the center and shall:

6.1.a.1. Ensure the center's compliance with the provisions of W. Va. Code §49-2B-1 et seq. and the requirements of this rule.

6.1.a.2. Implement a statement of purpose as described in this rule; and

6.1.a.3. Develop policies and procedures to be kept in an administrative manual as described in this section to guide the operation of the center.

6.1.b. A center shall have a governing body to ensure that the responsibilities of the licensee are carried out.

6.1.b.1. The governing body shall be comprised of at least one (1) parent of a child currently served by the center, or when no parent is available for the governing body, a parent advisory committee shall be established as described in this section;

6.1.b.2. No staff member, staff family member, or employee of a public agency that regulates or makes eligibility decisions for the center may serve, but the director may be an ex-officio member.

6.1.b.3. The governing body shall meet at least four (4) times a year and preserve in writing the minutes of each meeting, including but not limited to, the date and time, members in attendance, issues considered, and decisions made.

6.1.b.4. The governing body shall appoint a full-time director to manage the daily operations at each site where a center operates; submit the director's qualifications in writing for approval by the Secretary prior to employment; conduct an annual evaluation of the director; and oversee any necessary action regarding the director's job performance.

6.1.c. An unincorporated, individual licensee (owner) may act as the governing body. In addition to the requirements listed in Paragraph 6.1.b.4., the owner shall appoint a parent advisory committee comprised of parents of children currently served by the center that meets at least four (4) times a year.

6.2. Statement of Purpose.

6.2.a. An applicant or licensee shall ensure that each center has a written statement of purpose that includes:

- 6.2.a.1. The type of care and programs offered by the center;
- 6.2.a.2. The goals and objectives for each of the offered programs;
- 6.2.a.3. The ages of the children served;
- 6.2.a.4. The licensed capacity;
- 6.2.a.5. The scheduled days and hours of operation; and
- 6.2.a.6. The admission and discharge policies.

6.2.b. An applicant or licensee shall ensure that the statement of purpose is:

- 6.2.b.1. Available to staff members at all times; and
- 6.2.b.2. Reviewed with all staff members whenever changes are made.

6.3. Administrative Manual.

6.3.a. An applicant or licensee shall ensure that each center has an administrative manual that includes the center's policies and procedures with the dates they were implemented or revised, regarding:

- 6.3.a.1. Confidentiality and information disclosure and secure disposition of records;
- 6.3.a.2. Admission and Discharge;
- 6.3.a.3. Staff;
- 6.3.a.4. Behavior management;
- 6.3.a.5. Reporting of abuse and neglect;

6.3.a.6. Health, including, at a minimum, immunization, any parental objection to treatment, exclusion and readmittance of the child with a communicable illness, and medication administration;

- 6.3.a.7. Attendance; and
- 6.3.a.8. Emergencies.

6.3.b. An applicant or licensee shall ensure that the administrative manual is:

- 6.3.b.1. Available to staff members at all times; and
- 6.3.b.2. Reviewed with all staff members when changes are made.

6.4. Standards of Ethical Conduct. A center shall not misrepresent or operate a program in any way that is misleading, deceptive or illegal.

6.5. Records and Information Disclosure.

6.5.a. Records. A center shall maintain the confidentiality of all records, including:

6.5.a.1. Child records according to the following guidelines:

6.5.a.1.A. A center where the child is currently enrolled shall keep the child's records on the premises and have a procedure for the maintenance, security and disposition of records;

6.5.a.1.B. A center shall store and secure records against loss, tampering, or unauthorized use and establish procedures restricting access to records and unauthorized use under the provisions of W. Va. Code §61-3C-1 et seq.; and

6.5.a.1.C. A center shall retain records for a minimum of three (3) years following the child's discharge.

6.5.a.2. Staff records according to the following guidelines:

6.5.a.2.A. A center shall keep all current staff records on file on the premises and have a procedure for the maintenance, security and disposition of records;

6.5.a.2.B. A center that operates at more than one (1) site shall keep current staff members' emergency medical information on file at each location where a staff member is employed and at a central location;

6.5.a.2.C. A center that operates at more than one (1) site may keep all staff records at a central location.

6.5.b. Information Disclosure.

6.5.b.1. A center shall keep all information about the child confidential and shall only disclose it to staff members caring for the child in accordance with the center's policies and procedures.

6.5.b.2. A center shall obtain the written consent of the child's parent before disclosing information about the child, including photographs, audio or video recordings, or verbal statements about the child, except when disclosing information to the Secretary or his or her designee.

§78-1-7. The Child and Family.

7.1. Admission, Discharge, Basic Rights and Records.

7.1.a. A center shall develop, implement and maintain an admission policy and procedure ensuring that prior to the admission of the child to the center:

7.1.a.1. The parent completes and submits an application for day care services;

7.1.a.2. The director or designated staff member documents in the child's file, a meeting with the parent to exchange information about the center's programs and the specific needs of the child, including information about any individual characteristics and personality factors that may influence the child's behavior and well-being at the center, and any special family considerations that are relevant to day care;

7.1.a.3. A center provides to the parent a copy of its statement of purpose and discusses it with the parent;

7.1.a.4. A center provides information about its liability insurance coverage; and

7.1.a.5. A center informs the parent of the details of the agreements to be signed by the parent, including, but not limited to, an agreement that:

7.1.a.5.A. The center prohibits corporal punishment on its premises and during off-site center activities while the child is participating;

7.1.a.5.B. The parent has access to the center when his or her child is in attendance; and

7.1.a.5.C. The parent has received and discussed a copy of the center's policies on:

7.1.a.5.C.1. Behavior management and the reporting of child abuse and neglect;

7.1.a.5.C.2. Immunization, parental objections to treatment, the dismissal and readmittance to the center of the child with a communicable illness, procedures for notifying the child's parent in advance of its policies on the exclusion and readmittance of ill children, procedures for informing the parent of each child of the exclusion policy, and medication administration; and

7.1.a.5.C.3. Confidentiality and information disclosure.

7.1.a.5.C.4. Discharge policies.

7.1.b. The center shall ensure the parent has access to a copy of this rule;

7.1.c. The center informs the parent of its requirements for signed permission prior to the child's participation in field trips, water activities and other special activities; and

7.1.d. The center informs the parent of his or her right to report to the Secretary any complaints related to compliance with the provisions of W. Va. Code §49-2B-1 et seq. and the requirements of this rule.

7.2. Discharge policies. A center shall develop, implement and maintain policies and procedures, including criteria, for a child's discharge from the center:

7.2.a. When the parent withdraws the child from a center;

7.2.b. When a center asks a parent to remove his or her child; and

7.2.c. When a center informs the parent in advance of the request for discharge, except in cases of emergencies or investigations related to child abuse and neglect.

7.3. Basic Rights. A center shall ensure that the child and the child's family have equal access to programs regardless of race, religion, ethnicity, gender, ability, or sexual orientation.

7.4. Information About Child. For each child enrolled at a center, the center shall maintain a file in one central location that includes the following current information:

7.4.a. The child's name, address, sex and date of birth;

7.4.b. The name of the child's parent, and the home and work telephone numbers and addresses;

7.4.c. The names, addresses and telephone numbers of at least one (1) additional individual who can assume responsibility if the center cannot locate the parent;

7.4.d. The names, addresses and telephone numbers of the child's sources of primary medical care and emergency medical care;

7.4.e. The child's health insurance coverage and policy number;

7.4.f. A signed permission from the parent for emergency medical treatment and transportation;

7.4.g. A signed permission from the parent to take photographs or make audio or video recordings of the child;

7.4.h. A signed permission to release the child to someone other than a custodial parent, with the names, addresses and telephone numbers of the one person or several persons permitted to take the child from the center;

7.4.i. The legal verification when one (1) parent is the sole legal guardian of the child;

7.4.j. Information and special instructions from the child's parent or licensed health care provider about any special dietary or other needs because of a medical or other reason;

7.4.k. Health records as described in Section 15.1 of this rule;

7.4.l. The dates of enrollment and discharge;

7.4.m. Scheduled days and hours of attendance; and

7.4.n. The name and telephone number of the school-age child's school.

7.5. For emergency purposes, a center shall keep two (2) copies of the information in Section 7.4.a. through 7.4.j of this rule, with a parent's original signature on both copies, and shall keep:

7.5.a. One (1) copy in the center's files to be easily accessible at all times; and

7.5.b. The other copy in the center's emergency file, described in this rule, where it is available to accompany the child when the child is off-site.

7.6. Exchanging information with the parent. The center shall develop a plan for ongoing communication with the parent that includes a pre-admission meeting in which the center:

7.6.a. Discusses with the parent an oral or written system for exchanging information regularly about the child including the child's health and any events at home or at the center that may influence the

child's behavior and well-being; and

7.6.b. Provides the parent opportunities to volunteer at the center, including:

7.6.b.1. Assisting with program activities;

7.6.b.2. Sharing in educational activities or special events; or

7.6.b.3. Participating in program and policy development, including membership on the governing body or parent advisory board, attendance at planning meetings, or the completion of questionnaires about aspects of the center's operation and programs.

§78-1-8. Staffing.

8.1. All center staff are subject to the requirements of this rule including a volunteer or a parent who receives compensation for his or her duties, or who is used by the center to meet staff/child ratios.

8.2. Center staff does not include:

8.2.a. An adult who is in the center for brief periods in the normal course of carrying out business or professional activities and is not left alone with the children; or

8.2.b. A parent of an enrolled child who is at the center only for the purpose of performing parental responsibilities in relation to his or her own child.

8.3. Staffing Procedures.

8.3.a. A center shall develop, implement and maintain policies relating to staff employment, termination, utilization of uncompensated personnel, statement of criminal record, Child Maltreatment Record Search Release, compensation, and periodic performance evaluations.

8.3.b. A center shall provide new staff members with a notification letter that includes the position title, qualifications, duties and responsibilities at the time of hire.

8.3.c. A center shall conduct performance evaluations:

8.3.c.1. On all staff at least once a year; and

8.3.c.2. On all newly employed staff members and staff members new to their positions, initially, at three (3) months, six (6) months, and twelve (12) months.

8.3.d. A center shall provide staff members a written copy of their evaluation, signed by the center director and the evaluated staff member, and a continuing education plan based on the evaluation.

8.3.e. A center shall maintain a file for each staff member that includes:

8.3.e.1. A current job description;

8.3.e.2. Written references, including three (3) references for the center director and two (2) references for other staff members; and

8.3.e.3. Records of employment, including a duplicate copy of all performance evaluations.

8.4. Staff Requirements.

8.4.a. A center shall utilize staff members with:

8.4.a.1. A good reputation and character;

8.4.a.2. Sufficient education, training and experience to provide the skills necessary for carrying out the essential functions of his or her job with or without reasonable accommodation;

8.4.a.3. Sound judgment, emotional maturity, and an understanding of children;

8.4.a.4. A demonstrated ability to perform assigned tasks;

8.4.a.5. The ability to correct hazards that might harm the health, safety and well-being of the children;

8.4.a.6. The ability to work with children without mistreatment or abuse;

8.4.a.7. The ability to encourage children and to provide them with a variety of learning and social experiences appropriate to the age of the children;

8.4.a.8. The ability to support children's physical, emotional, psychological, social and personal development; and

8.4.a.9. The ability to communicate effectively and to respect confidentiality.

8.4.b. No person shall be on the premises or have contact with the children in care whose health or behavior would harm the children, or who is under the influence of a controlled substance, including alcohol or a legal pharmaceutical that impairs functioning.

8.4.c. Other than the exceptions cited in Subsection 8.4.d., a center shall ensure that each staff member has a criminal background investigation check submitted through the West Virginia Department of Military Affairs and Public Safety, Criminal Identification Bureau (CIB), and an authorized agency in a previous state of residence, if applicable, and shall keep the following information on file:

8.4.c.1. A completed, signed and witnessed Statement of Criminal Record;

8.4.c.2. A CIB records check, except as described in this section; and

8.4.c.3. A report of a Federal Bureau of Investigation (FBI) records check, for any staff member who has lived outside West Virginia within the past five (5) years, or has established residence outside West Virginia for more than one (1) year since turning eighteen (18) years of age;

8.4.c.4. A completed, signed, and dated Child Maltreatment Record Search Release.

8.4.d. A center does not require a criminal records check on the following:

8.4.d.1. A new staff member who has on file at the center documentation of the required criminal history investigations within the previous twelve (12) months;

8.4.d.2. An individual contracted to provide lessons or other services to the children while center staff are present.

8.4.e. Prior to receiving the CIB and FBI reports required under this rule on any staff member, a center shall have in place a safety plan that ensures that the staff member works under direct supervision and is not left alone with a child.

8.4.f. The Secretary may require a FBI check for any reason.

8.4.g. For individuals over thirteen (13) and under eighteen (18) years of age, prior to permitting them direct contact with the children on a regular basis, a center shall have on file a signed affidavit from the individual's parent stating that his or her child has never been arrested or convicted of an offense against a person.

8.4.h. A center shall update the following reports in each staff member's file:

8.4.h.1. The Statement of Criminal Record every two (2) years; and

8.4.h.2. The CIB report at least every five (5) years.

8.4.i. A center shall have policies and procedures that provide for the completion by a prospective staff member of a Statement of Criminal Record and the Statement of Child Maltreatment Record Search Release.

8.5. Hiring Prohibitions.

8.5.a. A center shall not employ or utilize an individual who is currently under indictment or charged with any crime, is currently on parole or probation for a felony conviction, or has been convicted or entered a plea of guilty or no contest to any of the following:

8.5.a.1. A violent felony crime including, but not limited to, abduction, rape, sexual assault, homicide, hate crimes, kidnaping, felonious physical assault or felonious battery;

8.5.a.2. Child or adult abuse or neglect, or the exploitation of a child or an incapacitated adult;

8.5.a.3. Domestic violence or spousal abuse;

8.5.a.4. Felony arson;

8.5.a.5. Felony or misdemeanor crime against a child or incapacitated adult;

8.5.a.6. Felony Driving Under the Influence (DUI) or drug-related offenses within the last ten (10) years;

8.5.a.7. Neglect or abuse by a care giver; or

8.5.a.8. Pornography and sexual offense crimes involving children or incapacitated adults, including purchase or sale of a child, incest, sexual abuse or indecent exposure.

8.5.b. A center shall not employ or utilize an individual who has received a finding of maltreatment in any child protective service record.

8.5.c. The Secretary may grant a waiver for a center to employ or utilize an individual who has entered a plea of guilty or no contest, or been convicted of a felony, or two (2) or more misdemeanor crimes that are not listed in Subsection 8.5.a.

8.5.d. A center shall have policies and procedures that include protocols requiring:

8.5.d.1. Staff to report his or her criminal arrest, charge, indictment, or conviction for a criminal offense to a center or the Secretary within twenty-four (24) hours;

8.5.d.2. A center to notify the Secretary of the staff member's report within twenty-four (24) hours; and

8.5.d.3. That a center prohibit a staff member who is accused of having sexually abused or otherwise injured a child from caring for or having contact with children pending the outcome of an investigation.

8.5.e. A center shall have staff policies and procedures regarding waivers that include procedures to follow when an individual requests a waiver, including procedures for:

8.5.e.1. Informing the staff member of the waiver process and time limit for requesting a waiver;

8.5.e.2. Providing a statement of support for the waiver request from the center director;

8.5.e.3. Identifying the circumstances when a center will accept a waiver; and

8.5.e.4. Ensuring that the staff member does not have contact with, or is removed from contact with, the children until the Secretary reaches a decision on the waiver.

8.5.f. Prior to employing staff, a center shall have on file a recent health assessment signed by a licensed health care provider that includes:

8.5.f.1. A health history;

8.5.f.2. A physical examination;

8.5.f.3. A statement that the prospective staff member is physically and emotionally capable of caring for children; and

8.5.f.4. A tuberculosis screening by the Mantoux method that is repeated annually.

8.5.g. For staff currently employed, a center shall keep on file a health assessment that is updated every two (2) years.

8.6. Staff Responsibilities, Qualifications and Training Requirements.

8.6.a. A center shall assign one (1) individual the responsibility for monitoring and implementing training, and maintaining training records.

8.6.b. A center shall require newly employed staff to meet training requirements, but may grant staff currently employed in positions at the time of the effective date of this rule up to three (3) years to comply with the education and training requirements of the position described in this rule, providing he or she remains in the same position at the same center and is in the process of acquiring the required training. Exception: Staff currently employed at the effective date of this rule, who have been employed continuously in a day care center position for the five (5) years prior to the effective date of this rule, shall be deemed to meet the qualifications of their position.

8.6.c. A center may offer an applicant for a lead teacher or teacher position conditional employment for a period of up to six (6) months pending completion of the pre-service education and training requirements described in this section.

8.6.d. Prior to or during the first week of employment and prior to having sole responsibility for a group of children, a center shall provide orientation to the staff member that includes a review of:

8.6.d.1. Licensing, other regulatory requirements, and a center's administrative manual;

8.6.d.2. Policies and staff duties;

8.6.d.3. Policies and procedures for confidentiality and information disclosure, behavior management, reporting child abuse and neglect, and emergencies;

8.6.d.4. Policies and procedures for basic sanitation and infection control;

8.6.d.5. Policies and procedures for safety, including prevention of injury both indoors and outdoors, and fire safety, including the use of fire extinguishers;

8.6.d.6. The statement of purpose and daily schedule, including the planned program of activities, routines and transitions; and

8.6.d.7. Communication at a center, including procedures to inform staff of any special dietary or other needs of the children for whom they will be responsible.

8.6.e. A center shall document that orientation training was provided by having the staff member and center director sign a statement acknowledging receiving orientation training and shall keep the statement in the staff member's file.

8.6.f. A center shall ensure that staff members receive approved training in:

8.6.f.1. Cardiopulmonary Resuscitation (CPR) and First Aid. In addition, prior to working in a summer recreation camp program and within six (6) months of employment or utilization in all other programs, staff members shall have current CPR certification appropriate to the age of the children in care and current child first aid training. Except in the first year of employment or utilization, training in CPR is in addition to the requirement for annual professional development.

8.6.f.2. Medication Administration. Prior to administering medication, the qualified staff member shall have training from an approved training source in medication administration. Training in medication administration may be used to meet the requirement for annual professional development described in this Section.

8.6.f.3. Abuse Recognition and Prevention. Prior to working in a summer recreation camp program and within six (6) months of employment or utilization in all other center programs, staff members shall have training in child abuse recognition and prevention. Training in child abuse recognition and prevention may be used to meet the requirement for annual professional development described in this section.

8.6.f.4. Annual Professional Development. Except when employed or utilized for a summer recreation camp only, staff members shall have fifteen (15) hours of professional development training annually.

8.6.g. A center shall ensure that prior to assuming management duties, including supervising other qualified staff members, assisting the director or serving as the designated person-in-charge of a center, a qualified staff member:

8.6.g.1. Completes the requirements for orientation training, annual professional development, and management orientation training that includes a detailed review of the center's administrative manual and management practices; and

8.6.g.2. Co-signs with the director a statement which is kept in the staff member's file acknowledging receiving management training.

8.6.h. A center that operates or plans to operate programs for children twenty-four (24) months of age and under:

8.6.h.1. Prior to starting the program, shall ensure that each qualified staff member caring for the child has received a minimum of forty (40) hours of approved training related to the care of children twenty-four (24) months of age and under, and shall submit documented evidence of it to the Secretary.

8.6.h.2. For an existing program a center shall ensure that within six (6) months of beginning to care for children twenty-four (24) months of age and under, each qualified staff member shall have a minimum of forty (40) hours of approved training related to the care of children twenty-four (24) months of age and under. Until all staff members meet the requirements of this section, the center shall ensure that at least one (1) qualified staff member is present at all times who has completed the minimum approved training.

8.6.h.3. In the first year of caring for children in this program, the approved training for the qualified staff member related to the care of children twenty-four (24) months of age and under shall meet the requirement for annual professional development described in this section.

8.6.h.4. For each year after the first year in this program, shall ensure that each qualified staff member's fifteen (15) hours of annual professional development include a minimum of six (6) hours of approved training related to the care of children in this program.

8.6.i. When a center operates a summer recreation camp:

8.6.i.1. And only a summer recreation camp, a center shall ensure that, in addition to

meeting the requirements for a director in this rule, the director shall have knowledge of camp administrative practices and at least one (1) season of leadership experience in a summer recreation camp or related activity.

8.6.i.2. In addition to other programs, a center shall ensure that the qualified staff member responsible for the program has knowledge of camp administrative practices and at least one (1) season of leadership experience in a summer recreation camp or related activity.

§78-1-9. Staff Responsibilities and Qualifications.

9.1. The Director shall:

9.1.a. Manage the daily operations of the center, including administering finances and human resources;

9.1.b. Supervise the teaching staff and the daily activities of support staff who provide services to the center and conduct a staff meeting at least once a month;

9.1.c. Make curricular decisions and plans and supervise all aspects of the children's program;

9.1.d. Communicate with staff members, children, parents, and the public;

9.1.e. Communicate with the Department and regulatory agencies to ensure compliance with all requirements; and

9.1.f. Have the following responsibility regarding children:

9.1.f.1. In a Type III center, the director shall not have regular responsibility for an assigned group of children.

9.1.f.2. In a Type I or Type II center, when the director has regular responsibility for an assigned group of children, the center shall keep a record on file of the hours and days of the director's work and the group assigned to the director.

9.1.g. Have the following qualifications:

9.1.g.1. Be at least twenty-one (21) years of age and have a minimum of one (1) year of relevant work experience;

9.1.g.2. In a Type I center, a minimum of:

9.1.g.2.A. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children; or

9.1.g.2.B. A total of two (2) years of relevant work experience.

9.1.g.3. In a Type II center, a minimum of:

9.1.g.3.A. A registered Apprenticeship Certificate for Child Development Specialist; or

9.1.g.3.B. Twenty-eight (28) college credits, with at least nine (9) credit hours in early childhood development; or

9.1.g.3.C. Three (3) years of relevant work experience.

9.1.g.4. In a Type III center, a minimum of:

9.1.g.4.A. An associate's degree in early care and education; or

9.1.g.4.B. A degree in a related field with 12 (twelve) credit hours in early childhood development and ninety (90) practicum contact hours; or

9.1.g.4.C. A degree in a related field and a total of one (1) year of relevant work experience.

9.1.h. Designate a person-in-charge to perform the duties of the director during all hours of operation when the director is not present at the center. The person-in-charge shall be a qualified staff member.

9.2. Assistant Director or Lead Teacher.

9.2.a. The duties and role of assistant director or lead teacher may be shared by the director and a teacher.

9.2.b. The assistant or lead teacher may have responsibility for the supervision, care and education of children and may be regularly assigned to a group of children.

9.2.c. The assistant or lead teacher shall:

9.2.c.1. Plan and adopt programming that conforms to core competencies of early childhood educators in Appendix 78-1 A of this rule and may implement daily program activities;

9.2.c.2. Coordinate the activities of teachers, assistant teachers, teaching assistants, and assist the director with designated activities;

9.2.c.3. Be at least twenty-one (21) years of age and have a minimum of one (1) year of relevant work experience and one of the following additional qualifications:

9.2.c.3.A. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children; or

9.2.c.3.B. A total of two (2) years of relevant work experience; or

9.2.c.3.C. A registered Apprenticeship Certificate for Child Development Specialist, or twenty-eight (28) college credits, with at least nine (9) credit hours in early childhood development.

9.3. A Teacher shall:

9.3.a. Have responsibility for the supervision, care and education of children and be regularly

assigned to a group of children;

9.3.b. Practice the core competencies of early childhood educators in Appendix 78-1 A of this rule, and plan and implement daily program activities;

9.3.c. Coordinate the activities of assistant teachers and teaching assistants, and may assist the director, assistant director or lead teacher with designated activities; and

9.3.d. Be at least eighteen (18) years of age and have a minimum of one (1) year of relevant work experience and have one of the following additional qualifications:

9.3.d.1. A West Virginia Training Certificate in Early Care and Education (WVTCECE) or equivalent; or

9.3.d.2. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children; or

9.3.d.3. A total of two (2) years of relevant work experience.

9.4. Assistant Teacher. An assistant teacher shall:

9.4.a. Practice the core competencies of early childhood educators in Appendix 78-1 A of this rule;

9.4.b. Work with young children with guidance from a qualified staff member who qualifies, at a minimum, as a teacher;

9.4.c. Coordinate daily activities and supervise teaching assistants in the absence of the teacher; and

9.4.d. Have the following qualifications:

9.4.d.1. Be at least eighteen (18) years of age and have a minimum of one (1) year of relevant work experience;

9.4.d.2. A high school diploma or a GED; and

9.4.d.3. A West Virginia Training Certificate in Early Care and Education (WVTCECE) or equivalent.

9.5. Teaching Assistant. A teaching assistant shall:

9.5.a. Assist other qualified staff members with the care and education of the child, but does not have responsibility for a group of children;

9.5.b. Work under the continuous supervision of a qualified staff member who qualifies, at a minimum, as an assistant teacher; and

9.5.c. Have the following qualifications:

9.5.c.1. Be at least eighteen (18) years of age;

9.5.c.2. Have a high school diploma or GED; and

9.5.c.3. Be enrolled in the WVTCECE program or equivalent.

9.6. Teen Aide. A teen aide shall:

9.6.a. Be at least two (2) years older than the oldest child in the group with whom he or she is working; and

9.6.b. Not be left alone with a child other than his or her own child.

9.7. Student Intern. A center that utilizes student interns shall ensure that:

9.7.a. The student intern fulfills the requirements of an educational or training program;

9.7.b. The student intern performs duties under the direct supervision of a qualified staff member who has at least the qualifications of an assistant teacher;

9.7.c. The student intern receives periodic supervision from the educational or training program teacher-coordinator;

9.7.d. The student intern is not left alone with a child other than his or her own child; and

9.7.e. The a copy of the student intern's training plan and training agreement developed jointly by the educational or training institution and the center are on file at the center.

9.8. Substitute. The center shall ensure that a substitute does not have sole responsibility for a group of children and works under the continuous supervision of, at a minimum, an assistant teacher.

9.9. Support Staff. The center shall ensure that support staff have appropriate qualifications for providing services to the center and meet the general and health requirements set forth in this rule.

9.10. Volunteer. The center shall ensure that a prior to providing a direct service to a center, a volunteer:

9.10.a. Is not less than eighteen (18) years of age.

9.10.b. Receives direct supervision from a qualified staff member who is not less than twenty-one (21) years of age; and

9.10.c. Is not left alone with a child other than his or her own child.

§78-1-10. Supervision of Children in Groups.

10.1. A center shall ensure that:

10.1.a. The children have adequate supervision at all times;

10.1.b. Staff members are awake and performing their duties during work hours;

10.1.c. When a play area is used that is accessible to the public, the boundaries of the play area are

clearly marked and known to the children;

10.1.d. The children remain in areas approved for daily program activities and do not go into other areas including the kitchen, unless it is part of the planned, supervised experiences;

10.2. Children will be assigned to distinct groups.

10.2.a. Each group shall be assigned a room or area of a room as a home base, even if the group moves to other areas, inside and outside a center, for daily activities;

10.2.b. When more than one (1) group of children up to school-age uses the same room, a center shall divide the room into a designated activity area for each group.

10.2.c. A center shall separate indoor areas regularly occupied by older children from children twenty-four (24) months and under;

10.2.d. A center shall ensure that a common outdoor area is not regularly used at the same time by groups of school-age children and by groups five (5) years of age and younger. For short periods of time such as when children are arriving and departing, for scheduled activities such as eating and napping, and for special occasions, including field trips, a center may combine school-age groups of children and children five (5) years of age and under.

10.3. Staff/Child Ratios. The minimum staffing ratios are the following:

10.3.a. When children are on the premises, a center shall ensure that at least two (2) staff members are on duty at all times.

10.3.b. When only one (1) qualified staff person is required to meet ratios at the beginning and end of the day, the second staff member may be a support staff member who is readily available in case of emergencies. A center shall ensure that while children are on the premises, the qualified staff member has completed a course in child first aid and has current certification in CPR appropriate to the age of the children in care.

10.3.c. A center shall assign each group of children to a qualified staff member or team of qualified staff members, maintaining at all times the staff/child ratios required under this rule. When groups are combined, a center shall continue to maintain the staff/child ratios required under this rule.

10.3.d. When more than one (1) qualified staff member is assigned to a group, a center shall designate one (1) qualified staff member as group leader with responsibility for planning the activities of the group to ensure that each child in the group receives developmentally appropriate care and adequate supervision on a day-to-day basis.

10.3.e. When only one (1) qualified staff member is assigned to a group, a center shall have a written plan, enabling the qualified staff member to call a second staff member for help without leaving the group.

10.3.f. In determining and maintaining the staff/child ratio, a center shall not include any qualified staff member who is performing other duties such as cooking, bookkeeping, or life-guarding; or another individual with designated responsibility for a special activity; or a support staff member who is not directly working with the children except in an emergency situation when staff may be reassigned to supervise the

children.

10.3.g. In determining and maintaining the staff/child ratio, a center shall have a plan to ensure that a qualified substitute is available if needed and is available when a staff person is absent for longer than a continuous two (2) week period.

10.4. A center shall group children and consider their ages when determining the staff/child ratio as follows:

10.4.a. A center shall count each child twelve (12) years of age and under who is present and being cared for in the day care center, including a child of the director or a staff member, and shall not consider a teen aide to be a child.

10.4.b. When children are at the center, the center may use either a single age grouping or a mixed-age combination to calculate the ratio according to the following:

10.4.b.1. For each single-age group at a center, the center shall maintain the staff/child ratio and group size described in Table A of Appendix 78-1 G of this rule.

10.4.b.2. For each mixed age group at a center, the center shall maintain the staff/child ratio and group size described in Table A of Appendix 78-1 G of this rule for the youngest child in the group.

10.4.b.3. When providing evening and nighttime care a center shall maintain the staff/child ratio and group size described in Table A of Appendix 78-1 G of this rule. In addition a center shall ensure that:

10.4.b.3.A. One (1) qualified staff member supervises a maximum of eight (8) children;

10.4.b.3.B. At least one (1) qualified staff member is in each room visually supervising the children at all times and checking at least hourly on each sleeping child; and

10.4.b.3.C. Each qualified staff member required to meet the staff/child ratio is on the premises and within calling distance of the rooms occupied by the children.

10.4.c. Exceptions to the staff/child ratio are:

10.4.c.1. During nap time.

10.4.c.1.A. For groups of children twelve (12) months of age and under, a center shall ensure that each qualified staff member required to meet the staff/child ratio described in Table A of Appendix 78-1 G of this rule, is present in the nap area and able to see and hear all of the children at all times.

10.4.c.1.B. For groups of children over twelve (12) months of age who participate in a nap-time program, a center shall ensure that at least one (1) qualified staff member is in each area visually supervising the children and each qualified staff member required to meet the staff/child ratio is on the premises and within calling distance of the areas occupied by the children.

10.4.c.2. During activities away from a center including:

10.4.c.2.A. Water activities.

10.4.c.2.A.1. When a child is participating in a Level I or Level II water activity, except a swimming lesson with a qualified instructor, a center shall maintain staff/child ratios described in Table B of Appendix 78-1 G of this rule; and

10.4.c.2.A.2. When two (2) or more children twenty-four (24) months of age and under are participating in a Level I or Level II water activity in a mixed age group, except a swimming lesson with a qualified instructor, the center shall ensure that at least two (2) qualified staff members are present.

10.4.c.2.B. Field Trips.

10.4.c.2.B.1. A center shall ensure that when a child is participating in a field trip, at least two (2) qualified staff members are present at all times.

10.4.c.2.C. At all times when transporting a child, a center shall ensure that no child is unattended in a vehicle, and a center shall maintain the staff/child ratio described in Table A of Appendix 78-1 G of this rule and not include the driver in the staff/child ratio.

§78-1-11. Supervision of the Individual Child.

11.1. Guidance, Behavior Management, and Discipline. A center shall:

11.1.a. Develop, implement and maintain policies and procedures for behavior management that include the prohibitions described in Subsection 11.4. of this rule;

11.1.b. Ensure that the guidance, behavior management and discipline practices are constructive and educational in nature, appropriate to each child's age and circumstances, and in keeping with the center's policies and procedures;

11.1.c. Ensure that staff members are aware of behavior issues relating to an individual child, and treat behavior problems individually and in private;

11.1.d. Delegate behavior management to qualified staff members who have an ongoing relationship with a child; and

11.1.e. Ensure that when it appears that a child is developing a pattern of unacceptable behavior, the staff member with the delegated responsibility for the child discusses the child's behavior in private with the director and informs the child's parent.

11.2. Guidance. At all times, staff members are responsible for providing positive guidance that is appropriate to each child's age, understanding and circumstances. Staff members shall:

11.2.a. Teach by example;

11.2.b. Recognize and encourage acceptable behavior;

11.2.c. Make eye contact with the child and kneel or sit beside the child whenever possible when speaking to the child;

11.2.d. Supervise with kindness, understanding and firmness;

11.2.e. Define clear limits, set fair and consistent rules and, when appropriate, permit an older school age child to participate in the development of rules and procedures;

11.2.f. Help a child develop self control to assume responsibility for his or her own actions;

11.2.g. Guide a child's activities in an orderly manner;

11.2.h. Prepare a child for his or her next activity a few minutes ahead of time, and allow the child a brief transition time before beginning the new activity;

11.2.i. Help a child avoid long waiting periods when the child has nothing to do by ensuring that the environment includes materials that hold his or her attention; and

11.2.j. Help a child feel successful at tasks and provide options if chosen tasks prove to be too difficult.

11.3. Behavior Management and Discipline. When a behavior problem arises, qualified staff members shall:

11.3.a. Redirect the child to alternative behavior or other activities;

11.3.b. Encourage the child to control his or her own behavior, cooperate with others and solve problems by talking things out;

11.3.c. Speak so that the child understands that feelings are acceptable, but inappropriate behaviors and actions are not;

11.3.d. Use appropriate time-out periods only as necessary and not for over one (1) minute for each year of a child's age up to a maximum of five (5) minutes for the child under school-age;

11.3.e. Ensure that during a time-out period the child is within sight and hearing of a staff member in a safe, lighted and well-ventilated space;

11.3.f. Maintain perspective about the minor misbehavior of the school-age child and recognize that every infraction does not warrant staff attention or intervention; and

11.3.g. Take action that relates to inappropriate behavior and ensure that any action that is taken is without bias and in proportion to the child's act.

11.4. Staff members and other adults at a center shall not handle behavior problems by:

11.4.a. Subjecting a child to physical punishment of any kind, including, but not limited to, shaking, striking, spanking, swatting, thumping, pinching, popping, shoving, spitting, biting, hair pulling, yanking, slamming, excessive exercise or any cruel treatment that may cause pain;

11.4.b. Putting anything in or on a child's mouth as punishment;

11.4.c. Restraining a child by any means other than a firm grasp around a child's arms or legs and

then for only as long as is necessary for the child to regain control;

11.4.d. Subjecting a child to psychological punishment of any kind, including but not limited to, ridicule, humiliation, or negative remarks about the child or the child's family, including remarks about race, gender, religion or cultural background;

11.4.e. Using harsh or profane language, or actual or implied threats of physical punishment;

11.4.f. Punishing or threatening a child in association with food, rest or toilet training;

11.4.g. Isolating a child without supervision or placing the child in a dark area such as a box, closet or similar confined space;

11.4.h. Permitting a child to discipline other children;

11.4.i. Punishing an entire group for the actions of a few children; or

11.4.j. Seeking or accepting parental permission to use physical punishment or other actions prohibited by this rule.

11.5. When a child's behavior problems continue over time, the director and staff member with delegated responsibility shall develop and implement a plan for managing the difficult behavior. The director shall ensure that:

11.5.a. When possible, a parent participates in the development of the plan and, in all cases, the center shall provide the parent with a copy of the completed plan and regular written reports of the child's progress;

11.5.b. When necessary and appropriate, other professionals also participate in the development and implementation of the plan and, when necessary, receive written reports of the child's progress;

11.5.c. Staff members cooperate in implementing the plan and keep on file at the center a copy of the plan, a record of the steps taken during implementation, and the child's progress in meeting the goals of the plan.

11.6. Abuse and Neglect. A center shall develop, implement and maintain policies and procedures for the reporting of child abuse and neglect that include:

11.6.a. The definition of child abuse and neglect;

11.6.b. The requirement to report immediately, in accordance with W. Va. Code §49-6A-1 et seq., any suspected incident of child abuse and neglect to the director or designated person-in-charge, and to Child Protective Services; or when the staff member believes that the director or designated person-in-charge would not or has failed to report the suspected incident, to the Child Abuse Hotline, 1-800-352-6513; and

11.6.c. A center shall post a statement in clear public view that it reports suspected child abuse and neglect to Child Protective Services.

11.7. The center shall inform staff about behavior management procedures and child abuse and neglect reporting by:

11.7.a. Providing each staff member a copy of its policies on behavior management and the reporting of child abuse and neglect, and providing revised policies when changes occur;

11.7.b. Obtaining a signed and dated acknowledgment that the staff member has read and understands the policies or revised policies; and

11.7.c. Placing the signed acknowledgment statement in the staff member's file.

11.8. At the time of admission a center shall inform parents about the center's behavior management procedures and child abuse and neglect reporting requirements by:

11.8.a. Providing to each child's parent written copies and an oral explanation of a center's policies on behavior management and the reporting of child abuse and neglect, and updating parents on policy changes when they occur;

11.8.b. Obtaining a signed and dated acknowledgment that the center has explained the policies and provided the parent with a copy. The statement bears the child's name, the date of enrollment, and, if different, the date the parent signs the statement; and

11.8.c. Placing the signed statement in the child's file for as long as the child is enrolled.

§78-1-12. Space Requirement.

12.1. Licensed Capacity. A center shall ensure that at all times the maximum number of children participating in activities on or off the premises does not exceed the licensed capacity determined by the separately computed area of indoor space, outdoor space and bathroom facilities, not to exceed the lowest number of the three computations.

12.2. Indoor Space.

12.2.a. A center shall provide a minimum of thirty-five (35) square feet per child of usable indoor space that is approved by the Secretary for daily program activities. A center shall make the rooms and areas of the center that are not approved for a child's use inaccessible to the children.

12.2.b. Indoor space for daily program activities does not include any space that is not available for a child's activities including space occupied by columns, vestibules and corridors; fire escapes; areas used exclusively for eating or napping; bathrooms; staff lounges; adult work areas including offices, laundry and furnace rooms; kitchens; permanently equipped isolation areas; storage spaces; and areas occupied by furniture except for areas that have:

12.2.b.1. Children's chairs and tables;

12.2.b.2. Adult sized comfortable chairs or couch;

12.2 b.3. Moveable play equipment and shelves for children's activities; or

12.2.b.4. A surface for changing diapers.

12.2.c. A center shall not provide activity space in a basement area unless the basement area is approved by the State Fire Marshal.

12.2.d. When a center operates a summer recreation camp program that provides outdoor activities for six (6) or more hours each day, the center shall provide at least ten (10) square feet of useable indoor activity space per child inside or provide a covered permanent structure that has the required activity space.

12.3. Outdoor Space.

12.3.a. A center shall provide an outdoor play area that includes a minimum of seventy-five (75) square feet of space per child, or if the outdoor play area has less than that a center shall:

12.3.a.1. Establish an outdoor play schedule for rotating groups of children to meet the minimum space requirement and to ensure that each child has an opportunity to play outdoors each day; and

12.3.a.2. Submit to the Secretary for his or her approval a copy of the current outdoor play schedule and shall use the outdoor space only after receiving the Secretary's written approval that shall be displayed at the center for public view.

12.3.b. A center shall:

12.3.b.1. Provide an outdoor play area that is on its premises or immediately adjacent to its premises; or

12.3.b.2. When neither of the options in Paragraph 12.3.b.1. of this rule is possible, shall submit a plan for the Secretary's approval for alternate outdoor play space to meet the children's outdoor activities requirement and shall use the outdoor space only after receiving the Secretary's written approval.

12.3.c. When a center operates a summer recreation camp program, the center shall submit a plan for the Secretary's approval for outdoor play space to meet the children's outdoor activities requirement and shall use the outdoor space only after receiving the Secretary's written approval.

12.4. Bathrooms.

12.4.a. The center shall provide one (1) flush toilet and one (1) lavatory per fifteen (15) children, excluding children in diapers who are not receiving toilet training.

12.4.b. When a center operates a summer recreation camp program that provides outdoor activities for six (6) or more hours each day, if the center receives written approval from the local health department, the center may use a commercial portable toilet and warm water, soap, paper towels, rinse water and a pit or other method for disposing of waste water.

§78-1-13. Furnishings, Equipment and Materials.

13.1. A center shall provide furnishings, equipment and materials that:

13.1.a. Are available in sufficient quantity for the number of children;

13.1.b. Are appropriate in type, arrangement and use for the developmental needs of the children;

13.1.c. Are durable and safe;

13.1 d. Are in good repair and free of sharp points or corners, pinch or crush points, splinters,

protruding nails or bolts, loose rusty parts, hazardous small parts that may be swallowed, identified poisons or paint that contains lead, and are regularly inspected by staff for potential hazards;

13.1.e. Are regularly cleaned and disinfected;

13.1.f. Are evaluated at regular intervals by the director and teacher to ensure their ongoing appropriateness for the age and number of children; and

13.1.g. Support the children's linguistic and intellectual development, and assist in providing for their physical, emotional, psychological, social and personal needs.

13.2. A center's furnishings shall include:

13.2.a. Children's chairs and tables that are multipurpose and not stationary;

13.2.b. Moveable play equipment;

13.2.c. Open shelves for play equipment for children's daily activities; and

13.2.d. Sleeping equipment as required in this rule.

13.3. In centers that enroll children twenty-four (24) months of age and under, or children that cannot function independently, a center's furnishings shall include:

13.3.a. Adult-sized comfortable chairs and a table or other surface for changing diapers that has raised sides or other features that prevent the child from falling and that are located in an area that is removed from the activities of the other children;

13.3.b. Furniture that is child-sized or adapted for children, but jumpers and infant walkers are prohibited; and

13.3.c. Feeding equipment that is appropriate and sufficient for the children's sizes, ages, and numbers served. When feeding equipment is a high chair, the chair shall have a wide base and a T-shaped safety strap.

13.4. A center's sleeping equipment:

13.4.a. For children who participate in a nap-time program shall include:

13.4.a.1. One (1) crib or playpen with a mattress for each child twelve (12) months of age and under or who is up to thirty-five (35) inches tall;

13.4.a.2. One (1) crib, playpen with mattress, mat or cot for each child between thirteen (13) and twenty-four (24) months of age; and

13.4.a.3. One (1) mat, cot, or bed for each child over twenty-five (25) months of age.

13.4.b. For evening and nighttime programs shall not include mats as sleeping equipment.

13.4.c. For the care of an ill child shall include at least one (1) disinfected cot.

13.4.d. Shall be required to be cleaned and disinfected at least once a week before another child uses it, or immediately after it is soiled.

13.4.e. Shall include the following specifications for cribs and playpens:

13.4.e.1. The distance between the slats, side and end panels of the crib or playpen is not more than two (2) and three-eighths (3/8) inches;

13.4.e.2. The mattress fits the crib snugly with no more than one (1) inch between it and the crib;

13.4.e.3. The crib is sturdy and non-collapsible;

13.4.e.4. The height from the top of the mattress at its lowest point to the top of the crib rail is at least twenty-six (26) inches;

13.4.e.5. The crib drop-side latch holds the side securely in the raised position, is out of the reach of the child in the crib, and is up when the crib is in use;

13.4.e.6. There are no corner-post extensions over one sixteenth (1/16) inch or decorative cutout areas in the end panels of the crib, that could entrap the child's head or catch on clothing; and

13.4.e.7. The crib mattress is at least four (4) inches thick, the playpen pad is at least one (1) inch thick, and each mattress or pad has a form-fitting cover that is durable and able to be easily disinfected.

13.4.f. Shall include the following specifications for mats:

13.4.f.1. They are at least two (2) inches thick; and

13.4.f.2. They have form-fitting covers that are durable, waterproof and able to be easily disinfected.

13.4.g. Shall include the following specifications for cots:

13.4.g.1. The bottom of the cot's sleeping surface is not less than three (3) inches and not more than eighteen (18) inches off the floor;

13.4.g.2. The cot is firm enough to support the child;

13.4.g.3. The cot is of sufficient size to comfortably accommodate the size and weight of the child; and

13.4.g.4. The cot is constructed of a material that can be easily disinfected.

13.4.h. Shall not permit the following sleeping accommodations for children:

13.4.h.1. They sleep on the floor;

13.4.h.2. They sleep on the floor in a sleeping bag or on bed linens alone;

13.4.h.3. They sleep in a stacked crib or consecutively attached crib;

13.4.h.4. They share a bed or cot, even with a family member; or

13.4.h.5. They use a crib if they are over thirty-five (35) inches tall.

13.4.i. Shall include the following specifications for bedding:

13.4.i.1. Mattresses, playpen pads or cots are waterproof or have a waterproof cover;

13.4.i.2. Bedding, including sheets and blankets, is clean and in good condition;

13.4.i.3. Bedding is not used by more than one child at a time;

13.4.i.4. Bedding is used to cover all sleeping surfaces before being used;

13.4.i.5. Seasonally appropriate covers are used, sufficient to maintain adequate warmth;

13.4.i.6. Pillows or soft, fluffy bedding is not used for the child twelve (12) months of age and under;

13.4.i.7. A kind made of substances of animal origin other than wool, including feathers and animal hair, that commonly cause allergic reactions, is prohibited; and

13.4.i.8. A center change bedding when soiled, prior to use by another child and at least weekly, except sheets on cribs that shall be changed at least daily.

13.4.j. Shall include the following requirements when providing evening or nighttime care:

13.4.j.1. Each cot or bed has a pillow, pillow case and two (2) sheets; and

13.4.j.2. When the sleeping surface is a mattress, the bottom sheet is secure.

13.5. A center shall provide equipment and materials for indoor activities that:

13.5.a. Are appropriate to the child's age and developmental level;

13.5.b. Support many types of activities, including social and fantasy play; exploration and mastery of skills and language; music, art and movement; and gross motor experiences as in Appendix 78-1 B of this rule;

13.5.c. Are available in sufficient quantity to permit each child to choose from among several of each type, to allow for sharing and prevent conflict, and to allow staff to keep reserves for rotation;

13.5.d. Represent diverse cultures, ethnic groups, gender roles and abilities in ways that do not reinforce stereotypes;

13.5.e. Are clearly organized within activity areas that support programming goals and allow for adequate supervision;

13.5.f. Are complete, sturdy, clean and in good working condition;

13.5.g. Are lead-free and otherwise nontoxic;

13.5.h. Maximize safety by ensuring that:

13.5.h.1. Indoor play equipment, shelves, and large objects, such as televisions and computer monitors, are firmly anchored;

13.5.h.2. Use zones are extended by at least six (6) feet in all directions from the perimeter of indoor climbing equipment, and landing mats are provided that are at least four (4) inches thick, constructed of materials such as rubber or a rubber composition, and securely fixed in place;

13.5.h.3. Small objects, toys and toy parts that have diameters of less than one (1) and one quarter (1/4) inch that can be swallowed are not accessible to children less than four (4) years of age; and

13.5.h.4. Plastic bags and styrofoam objects are not accessible to the child less than four (4) years of age, and that balloons are completely prohibited.

13.6. A center shall provide equipment and materials for outdoor activities that:

13.6.a. Are appropriate to the child's age and developmental level;

13.6.b. Support many types of experiences as listed in Appendix 78-1 B of this rule;

13.6.c. Are available to the child in sufficient quantity to permit each child to choose at least two (2) types of outdoor play experiences and to allow for sharing and prevent conflict;

13.6.d. When a child is not ambulatory, are appropriate for outings, such as a stroller or carriage;

13.6.e. Maximize safety by ensuring that:

13.6.e.1. All outdoor equipment is installed, maintained and used in accordance with the manufacturer's instructions;

13.6.e.2. The position of the outdoor equipment prevents hazards from conflicting activities;

13.6.e.3. The use zones are free of obstacles, except for the support structures for the swings;

13.6.e.4. The supports for climbers, swings, and other heavy equipment are securely anchored so that they pose no threat to the children's safety, even when the equipment is designed to be portable;

13.6.e.5. Each swing frame for the child 24 (twenty-four) months of age and under has a maximum of two (2) seats;

13.6.e.6. Metal equipment is in the shade, if at all possible;

13.6.e.7. When the center has a sand box, that the box permits drainage, is covered when not in use, and that the sand does not contain toxic or other harmful materials and is free of animal excrement and other debris; and

13.6.e.8. The outdoor area is free of wading pools and other equipment that might hold water and pose a drowning hazard to the child.

13.7. A center shall provide storage for equipment, materials and supplies that includes:

13.7.a. A low, open shelf for activity items so that children may select, remove and replace items independently;

13.7.b. A container, shelf, or cupboard that is inaccessible to children but permits staff to reach supplies, such as clean diapers, without leaving a child unattended;

13.7.c. When a closet is used that is accessible to children, it shall have a latch with an internal release so that the door can be opened by a child inside the closet; and

13.7.d. Separate storage areas for each child's personal belongings, including appropriate safe storage for the school-age child's money and ongoing projects.

§78-1-14. Program.

14.1. For each program offered, a center shall prepare and follow a written daily schedule that:

14.1.a. Reflects the goals and objectives set out in the statement of purpose;

14.1.b. Is based on knowledge of child development and learning, and on the needs of the enrolled children;

14.1.c. When necessary to accommodate the needs of a child, follows a written individualized plan, developed with advice from a variety of professional sources, including, but not limited to, an early intervention specialist or a licensed health care provider; and

14.1.d. Is posted in clear, public view.

14.2. A center shall ensure that each program includes flexible program activities that:

14.2.a. Are appropriate to a child's age and developmental level;

14.2.b. Include an appropriate balance of:

14.2.b.1. Indoor and outdoor activities;

14.2.b.2. Activities that use both large and small muscles;

14.2.b.3. Quiet and active play periods;

14.2.b.4. Active and passive learning experiences;

14.2.b.5. Individual and several types of group activities; and

14.2.b.6. Teacher-initiated and child-initiated activities;

14.2.c. Provide opportunities for a child to choose from among several possible activities, or choose not to participate in structured activities at certain times of the day;

14.2.d. Provide a variety of social experiences through grouping arrangements, including mixed-age experiences, that take into account each child's level of maturity;

14.2.e. Include routines at regularly scheduled times, such as sleeping, eating, dressing, toileting, hygiene and diapering;

14.2.f. Are planned so that a child has sufficient time to progress at his or her own developmental rate and does not experience a prolonged waiting period between activities or tasks;

14.2.g. Provide a child with the freedom to get a drink of water or go to the toilet as he or she feels the need, in keeping with the requirements of this rule; and

14.2.h. Respect cultural diversity and incorporate aspects of a child's culture, including his or her language, traditional food and celebrations.

14.3. A center shall ensure that each program follows guidelines for:

14.3.a. Sleeping routines. A center shall:

14.3.a.1. Provide a designated area where a child can sit quietly or lie down to rest;

14.3.a.2. Ensure that a child twenty-four (24) months of age and under is able to nap according to his or her developmental needs;

14.3.a.3. Ensure that the schedule for a child between twenty-five (25) months of age and school-age who is in care for more than four (4) daytime hours includes a regular nap period of at least one (1) hour each day for the child who sleeps, an opportunity for rest and quiet play for the child who is unable to sleep during the nap period, and a regular nap period for the school-age child who needs it; and

14.3.a.4. Ensure that staff members shall initially place the child six (6) months of age and under, or under the age when he or she can turn over independently, on his or her back unless the parent provides a written statement from a licensed health care provider prohibiting the child from being placed in that position for sleep.

14.3.b. Brushing Teeth. A center shall provide appropriate opportunities for the children in care to have supervised practice of brushing teeth.

14.3.c. Outdoor Activity. When a child is in care for more than four (4) daytime hours, weather and circumstances permitting, a center shall provide a minimum of one (1) hour of outdoor activity daily, on days when the temperature is forty (40) degrees Fahrenheit or more, and may provide outdoor activity on other days, as appropriate.

14.4. For children twenty-four (24) months of age and under, a center shall follow these additional daily

program requirements:

14.4.a. Beginning with the pre-admission meeting between the director or designated staff member and the parent, a center shall work with a child's parent to prepare a written schedule that:

14.4.a.1. Respects a child's normal pattern of activities, sleeping and eating;

14.4.a.2. Is consistent with a child's needs and capabilities;

14.4.a.3. Provides a child with opportunities to interact with staff members, participate in program activities, be outdoors daily as appropriate, and be diapered or toileted as needed; and

14.4.a.4. Identifies qualified staff who will primarily care for the child.

14.4.b. A center shall ensure that the schedule is available for reference in the child's program area.

14.4.c. A center shall ensure that qualified staff members:

14.4.c.1. Evaluate and modify the schedule on a frequent and regular basis, according to the child's developmental needs and in consultation with the child's parent;

14.4.c.2. For each child twelve (12) months of age and under, prepare a written daily report with information about a child's activities in the following areas:

14.4.c.2.A. Food intake;

14.4.c.2.B. Sleeping patterns;

14.4.c.2.C. Bowel movements;

14.4.c.2.D. Developmental milestones, such as sitting and crawling; and

14.4.c.2.E. Unusual events; and

14.5. Staffing Pattern. A center shall arrange its staffing pattern so that each child has a primary care giver who is a qualified staff member. Staff members shall interact personally with the infant, toddler, and the younger child by:

14.5.a. Holding, rocking and playing whenever possible, including while bathing, dressing and carrying the child;

14.5.b. Encouraging positive communication and language development by making eye-to-eye contact with the child, singing, talking, reacting to the child's sounds, naming objects, reading stories and playing musical games;

14.5.c. Paying attention to crying and meeting the immediate needs of the child;

14.5.d. Ensuring that no child is routinely left in a crib or playpen, except for sleep or rest; and

14.5.e. Providing a child who is awake play equipment and opportunities to play freely on a clean,

safe floor.

14.6. For school-age children, a center shall follow these additional daily program requirements:

14.6.a. A center shall post a daily schedule of activities that reflects the time of day and the number of hours that it provides care before school, after school, and on days when school is closed.

14.6.b. A center shall ensure that the program described in the daily schedule meets the requirements of Section 14.1, includes activities that reflect a school age child's interests and skills, and provides opportunities for the child to:

14.6.b.1. Be involved in activity planning, including his or her own;

14.6.b.2. Complete homework and work on projects or hobbies;

14.6.b.3. Be involved with children of the same age; and

14.6.b.4. Join in group play and community activities.

14.6.c. A center shall ensure that staff members in school age programs have the skills and training to respond to the needs of the older child and recognize that interactions with the school age child differ significantly from interactions with the younger child. The staff members shall:

14.6.c.1. Actively seek meaningful conversations with a child and talk about events of importance and mutual interest;

14.6.c.2. Be available and responsive to a child, listen with attention and respect, and encourage the child to share experiences, ideas and feelings;

14.6.c.3. Help a child develop problem-solving skills by describing problems and encouraging him or her to evaluate the situation;

14.6.c.4. Facilitate rather than instruct by offering suggestions, providing positive reinforcement, and encouraging efforts, and recognizing accomplishments; and

14.6.c.5. Have developmentally appropriate expectations of a child's social behavior.

14.7. Summer Recreation Camp. A center operating a summer recreation camp shall follow these guidelines:

14.7.a. Other than the requirements in Subsection 14.1 of this rule, a center shall ensure that the daily schedule provides for outdoor or off-site activities a majority of the time;

14.7.b. Other than the requirements of Subdivision 14.7.c. of this rule, a center may from time to time schedule an occasional overnight activity;

14.7.c. When a center that operates a summer recreation camp program schedules an overnight activity, the center shall provide a mat, cot or bed for each child; and

14.7.d. When a center provides evening or night time care, the center shall:

14.7.d.1. Plan a program that respects the normal sleeping periods, and evening and morning routines of the child; and

14.7.d.2. Establish and post a schedule for the child in consultation with the child's parent that provides for:

14.7.d.2.A. Quiet activities before bedtime and opportunities for the older child to complete homework or work on projects or hobbies;

14.7.d.2.B. Meals and snacks;

14.7.d.2.C. Routine preparations for bed; and

14.7.d.2.D. Dressing in the morning, when applicable.

14.7.d.3. Ensure that no child remains in care for more than eighteen (18) hours in a twenty-four (24) hour period;

14.7.d.4. Ask the parent to provide for the child's personal use a clean, comfortable, nonflammable or flame retardant sleeping garment and other personal items, such as a comb or brush, and label the child's personal use items; and

14.7.d.5. Ensure that staff members supervise a child's bath or individual shower, respecting the child's privacy according to the child's developmental needs.

14.8. Active Media. When a center plans an activity that involves active media, the center shall ensure that:

14.8.a. The active media supplement but do not replace traditional early childhood materials;

14.8.b. A child has a choice of other activities and materials;

14.8.c. Staff members are available to support the activity by discussing the use of the active media with the child;

14.8.d. The computer software chosen is developmentally appropriate and supports creative play and learning; and

14.8.e. No video games or computer software with sexual or violent content, profanity or aggressive behavior are used.

14.9. Passive Media. Regarding passive media, a center shall ensure that:

14.9.a. Passive media are not routinely part of the daily schedule;

14.9.b. When passive media is used, that staff members are available to support the use of it by discussing what is viewed with the child;

14.9.c. When a center allows the child to watch television programs and movies, the contents are designed to benefit the child, viewing time is limited and the child who does not wish to watch has a choice of

other activities; and

14.9.d. No television programs, cartoons or movies with sexual or violent content, profanity or aggressive behavior are viewed.

14.10. Special Activity. When a center plans a special activity, prior to the special activity the center shall:

14.10.a. Have on file an activity plan that includes, but is not limited to:

14.10.a.1. The qualifications of the supervisor of the special activity;

14.10.a.2. The special qualifications, if any, of any other staff member necessary for adequate supervision of the activity;

14.10.a.3. A supervision plan that includes the number of staff members needed to adequately supervise the activity;

14.10.a.4. The conditions under which a child may participate in the activity, such as the child's age or skills;

14.10.a.5. Any special equipment necessary, such as life jackets, helmets, or other safety gear; and

14.10.a.6. Special safety practices and emergency procedures.

14.10.b. Provide the parent with a copy of the activity plan and have written permission dated and signed by the parent for the child's participation in the activity; and

14.10.c. Assign appropriate staff to the activity by:

14.10.c.1. Choosing a staff member for the special activity who has appropriate experience, training or certification in the activity;

14.10.c.2. Having on file at the center verification of the responsible staff member's experience, training or certification; and

14.10.c.3. Ensuring that the responsible staff member is present at the site of the activity.

14.11. Water Activities. When a center plans water activities, the center shall:

14.11.a. Have on file at the center written permission dated and signed by the parent prior to the child's participation in any water activity;

14.11.b. Ensure constant supervision of a child participating in any aspect of any activity involving water;

14.11.c. Ensure adequately prepared staff who are in the water or prepared to enter it at any time and have a system, known to the children and staff members, for checking to ensure that each child is safe when in the water;

14.11.d. Ensure that when a child is participating in a Level I or Level II water activity, a staff member is present who has successfully completed training in first aid and CPR, appropriate to the age of the child;

14.11.e. Ensure that when a child is participating in a Level II water activity, the activity is also guarded by an individual who:

14.11.e.1. Is an appropriately certified lifeguard;

14.11.e.2. Has skill in rescue and emergency procedures specific to the aquatic area and activities guarded; and

14.11.e.3. Is trained and supervised to enforce safety regulations, provide necessary instructions, and identify and manage environmental and other hazards related to the aquatic activity.

14.11.f. Ensure proper equipment and safety further by:

14.11.f.1. Evaluating the child and classifying the child as either a swimmer or a non swimmer; prior to allowing a child to participate in a Level II water activity;

14.11.f.2. Assigning equipment, facilities and activities equivalent to the child's individual abilities and based on a child's classification; and

14.11.f.3. Ensuring that rescue equipment is in full working condition, available and accessible to a child at each water activity site.

14.12. Field Trip. When a center plans a field trip, the center shall:

14.12.a. Have on file a written field trip plan that includes:

14.12.a.1. The names of the children, staff members and any other participants on the field trip;

14.12.a.2. The departure and return times;

14.12.a.3. The means of travel and routes to be taken;

14.12.a.4. An alternate plan in case of bad weather;

14.12.a.5. The name of a contact person at the center;

14.12.a.6. The name, address and telephone number, if applicable, of each destination;

14.12.a.7. Relevant safety rules to be followed; and

14.12.a.8. Special emergency procedures.

14.12.b. Secure written permission from the child's parent prior to the field trip;

14.12.c. The name or names of the assigned qualified staff member or members responsible for the field trip who shall take with him or her a copy of the written field trip plan, first aid supplies and emergency

information for each participating child.

14.13. **Special Activities.** When a center participates in special activities, the center shall provide staff who are trained and supervised to enforce safety regulations, provide necessary instructions, and identify and manage environmental and other hazards related to the special activity.

§78-1-15. Health.

15.1. Child Immunization Records.

15.1.a. Within thirty (30) days of admitting a child, a center shall have on file a record of a child's immunizations or a plan for completion signed by the child's licensed health care provider.

15.1.b. Exemptions from immunization requirements shall be available for parents who provide written documentation of religious objections to immunization or who provide a signed statement from the child's licensed health care provider indicating that immunization is contraindicated based on the child's medical condition.

15.2. Child Health Assessment.

15.2.a. A center shall have on file no later than thirty (30) days after the admission, the child's health records, including a record of a health assessment signed by the child's licensed health care provider, that includes the following medical and developmental information, and any special required instructions for the center:

15.2.a.1. The child's current height and weight;

15.2.a.2. A description of any allergy, current health problem or condition that may affect the child's adaptation to care, including abnormal results of screening tests, for vision, hearing, tuberculosis, or lead poisoning.

15.2.a.3. Prescribed daily medications and any potential side effects; and

15.2.a.4. The child's health history, including, as applicable, information about a serious illness or significant communicable disease, an injury that required medical attention or hospitalization, a previous surgery, or a history of prematurity; and

15.2.b. A center shall ensure that a child's health assessment is updated with new or current information according to the schedule established by the American Academy of Pediatrics, or at least every six (6) months for the child twenty-four (24) months of age and under, and at least every two (2) years for the child twenty-five (25) months and over.

15.2.c. If a child is between six (6) weeks and three (3) months of age, a center shall have on file a statement signed by the child's licensed health care provider permitting the child to enter group care.

15.3. Medical Treatment.

15.3.a. A center shall develop, implement and maintain health policies and procedures that include protocols to follow when medical treatment is required by a child whose parent has on file a signed statement

objecting to treatment.

15.3.b. When the child's parent objects to medical treatment on the grounds that it conflicts with the convictions of his or her religion or conscience, the center shall have on file a statement of the objection to treatment signed by the child's parent.

15.4. Child Illness at the Center.

15.4.a. A center shall ensure that staff members observe a child daily and watch for changes that may indicate injury, infestation or illness, and record any observed changes in the child's file. Changes include:

15.4.a.1. Behavior or appearance that is unusual for a child;

15.4.a.2. A skin rash, itchy skin, or itchy scalp; or

15.4.a.3. A complaint of pain or not feeling well.

15.4.b. When staff members observe changes in a child that may indicate illness or when a child is ill, staff members shall:

15.4.b.1. Remove the child to a designated quiet area to rest comfortably under supervision;

15.4.b.2. Take the child's temperature and record it in the child's file;

15.4.b.3. Use universal precautions, as required; and

15.4.b.4. Contact the child's parent or other individual authorized by the parent to assume responsibility for the child.

15.4.c. When taking a child's temperature, staff members shall not use a mercury thermometer or the rectal method for any child.

15.4.d. A center shall inform the parent and suggest that the parent consult a licensed health care provider for a child who has a fever:

15.4.e. A center shall exclude a sick child from the center:

15.4.e.1. Immediately when a child has a serious communicable illness;

15.4.e.2. When the illness prevents a child from participating in routine activities;

15.4.e.3. When a child's illness results in a greater need for care than staff members can provide without compromising the health and safety of the other children; and

15.4.e.4. When a child appears to have any of the following symptoms, unless a licensed health care provider determines that they do not indicate a communicable disease:

15.4.e.4.A. Fever with stiff neck, lethargy, irritability, or persistent crying;

15.4.e.4.B. Diarrhea in addition to signs of dehydration, such as a decrease in urination as indicated by a reduction in the number of wet diapers, no tears when crying or a decrease in activity, or blood or mucus in the stool;

15.4.e.4.C. Vomiting three (3) or more times, or with signs of dehydration;

15.4.e.4.D. Undiagnosed rash that is accompanied by a behavior change, difficulty in breathing or joint pain, or that is characterized by open sores, blood, red or purple pin-head spots, or bruises not associated with an injury, or lasts more than one (1) day;

15.4.e.4.E. Mouth sores with drooling;

15.4.e.4.F. Infestation, such as scabies or head lice;

15.4.e.4.G. Abdominal pain that is persistent, or intermittent with other signs such as a fever;

15.4.e.4.H. Difficulty in breathing; or

15.4.e.4.I. Lethargy such that the child does not play.

15.4.e.5. When a child has any of the following diagnosed conditions:

15.4.e.5.A. Diarrhea and blood or mucus in the stool;

15.4.e.5.B. Contagious signs of pertussis, measles, mumps, chicken pox, rubella or diphtheria;

15.4.e.5.C. Streptococcal infection until treated with antibiotics for twenty-four (24) hours;

15.4.e.5.D. Pinkeye with yellow or white discharge;

15.4.e.5.E. Untreated tuberculosis; or

15.4.e.5.F. Other conditions as determined by a licensed health care provider.

15.4.f. When excluding a child to prevent transmission of illness or readmitting a child who has been excluded, the center shall abide by the following guidelines:

15.4.f.1. During the course of an identified outbreak of any communicable illness, the center shall exclude the child if a licensed health care provider determines that the child is contributing to the transmission of the illness;

15.4.f.2. When a child has been diagnosed with a vaccine-preventable communicable disease, a center shall exclude the child who has not been immunized against the disease until a licensed health care provider determines that the risk of disease transmission has passed;

15.4.f.3. When a licensed health care provider excludes a child because of a

communicable illness, a center shall readmit the child only after the child's parent provides a signed statement from a licensed health care provider that the risk of transmission is no longer present and the child is well enough to participate in center activities; and

15.4.f.4. After receiving a signed statement from a licensed health care provider that the child poses no health risk to the children at the center, the center may permit the child to remain at the center.

15.4.g. Guidelines for handling reportable diseases introduced in a center include that:

15.4.g.1. A center shall report to the local health department the introduction of a diagnosed reportable disease as listed in Appendix 78-1 C of this rule, including, chickenpox, diphtheria, giardia lamblia, hepatitis A, mumps, meningitis, pertussis (whooping cough), rheumatic fever, rubella (German measles), rubeola (measles), salmonella, shigella, and tuberculosis.

15.4.g.2. A center shall inform the parent of each child immediately of the presence of the disease and the need to contact a licensed health care provider for further information; and

15.4.g.3. A center shall complete a serious occurrence report as required under this rule.

15.4.h. Medication Administration. With advice from a licensed health provider, a center shall develop, implement and maintain health policies and procedures that include the following procedures for the administration of medication:

15.4.h.1. A center shall only administer medication with written permission from the child's parent, and with a prescription or a written order from a physician or other licensed health care provider.

15.4.h.2. A center may refuse to administer non prescriptive medications.

15.4.h.3. A center shall store all medication in its original bottle or package in a locked cabinet or container that is inaccessible to children, away from food, and refrigerated or unrefrigerated according to instructions on the prescription, order or label. When a center stores medication and food in the same refrigerator, the center shall place the medication in a sealed plastic container.

15.4.h.4. A center shall ensure that medication is only administered by designated qualified staff members with training in medication administration.

15.4.h.5. A center shall ensure that medication is only administered when:

15.4.h.5.A. The prescriptive medicine bottle or package has the original pharmacy label showing the prescription number, name of the medication, date the prescription was filled, the physician's name, the child's first and last names, specific, legible directions for administration and storage, and the expiration date; or

15.4.h.5.B. The original non prescriptive medicine bottle or package also has a label with the child's first and last names, specific, legible directions for administration and storage, and the name of the licensed health care provider who wrote the order and the date of the order.

15.4.h.6. A center shall ensure that before administering medication when the directions are not legible, staff members check with the child's licensed health care provider or, if applicable, the pharmacy that filled the prescription.

15.4.h.7. When a child no longer needs the medication or its expiration date passes, a center shall return the medication to the parent, and document the date of its return. A center shall not administer medication after its expiration date.

15.4.h.8. A center shall ensure that records of medication administration are kept:

15.4.h.8.A. In a medication log that is cumulative; and

15.4.h.8.B. Completed in ink by the staff member who administers the medication, and includes the child's name, the date and time of the administration, the name and dosage of the medication, the child's reaction, if any, and the name of the staff member who administered it.

15.4.h.9. A center shall ensure if and when a medication error is made, the staff member who makes the error shall:

15.4.h.9.A. Inform the center director and the parent of the child affected by the error;

15.4.h.9.B. Contact the licensed health care provider of the child affected by the error;

15.4.h.9.C. Complete a serious occurrence report as required under this rule;

15.4.h.9.D. Observe the child for any reaction to the error and, if a licensed health care provider has been contacted, follow the provider's instructions; and

15.4.h.9.E. Draws a line through an incorrect recording entry, initials the error and writes the correct information.

15.4.h.10. A center may permit a child to self-administer his or her own medication under the following circumstances:

15.4.h.10.A. With written permission from the child's parent and physician and in accordance with procedures established in this rule, a child may self-administer asthma medication, emergency allergy medication or other similar emergency medication;

15.4.h.10.B. With written permission from the child's parent and physician, the center may establish procedures to permit the child, under supervision, to self-administer insulin or other injected medication that the child requires; or

15.4.h.10.C. When the child self-administers medication, qualified staff members will keep a written record of the administration in the medication log.

15.4.i. Prior to the application of sun screen for outdoor play, the center shall:

15.4.i.1. Have written permission from the parent on file;

15.4.i.2. Ensure that the sun screen is labeled with the child's first and last names;

15.4.i.3. Give the parent written information about the sun screen;

15.4.i.4. Ensure that a staff member applies sun screen to a child up to four (4) years of age; and

15.4.i.5. Permit a child more than four (4) years of age to apply his or her own sun screen under the direct supervision of a staff member.

15.5. Dental Health.

15.5.a. A center shall develop a dental health plan that provides for staff training in oral health concepts and child oral health education, appropriate to the age of the children at the center.

15.5.b. Staff members shall not give a child a bottle, a sipping cup of milk or juice as a pacifier.

15.5.c. For a child twenty-five (25) months and over, a center shall ensure that the child:

15.5.c.1. Has a personally labeled toothbrush with bristles in good condition, that is stored in a sanitary manner so that it does not touch another toothbrush and that its bristles are exposed to the air to dry;

15.5.c.2. Does not share his or her toothbrush with other children; and

15.5.c.3. Uses toothpaste that is dispensed in a sanitary manner.

§78-1-16. Nutrition and Food.

16.1. A center shall provide children with meals and snacks that are consistent with the United States Department of Agriculture's current Dietary Guidelines for Americans in Appendix 78-1 D of this rule.

16.2. Special Dietary Needs. When planning meals and snacks a center shall:

16.2.a. Consider information provided by the parent or a licensed health care provider about a child's special dietary needs, including special needs because of a medical condition or other reason, such as vegetarianism or a religious prohibition; and

16.2.b. Keep information about the child's special dietary needs in a location that is accessible to staff who prepare and serve food, while protecting a child's right to confidentiality.

16.3. Food Groups. A center shall include foods from the four (4) basic food groups: milk, protein, fruits and vegetables, and grains, as listed in Appendix 78-1 D of this rule, for the child thirteen (13) months and over as follows:

16.3.a. Breakfast shall include at least one (1) item from three (3) of the food groups;

16.3.b. Lunch or supper shall include at least one (1) item from each of the four (4) food groups; and

16.3.c. Snacks shall include at least one (1) item from two (2) of the food groups.

16.4. Frequency of Meals. A center shall ensure that no more than four (4) hours elapse between meals and snacks, unless a child is asleep. A center shall provide meals and snacks according to the following requirements:

16.4.a. A center that is open from morning through afternoon shall serve a morning snack or breakfast, lunch and afternoon snacks;

16.4.b. A center with a school-age program shall serve a snack to the school-age child arriving after school;

16.4.c. A center that provides care before seven (7) o'clock in the morning shall serve breakfast;

16.4.d. A center that provides care to the child whose planned attendance extends until after seven (7) o'clock in the evening shall serve supper; and

16.4.e. A center shall provide at least one (1) hot meal a day to each enrolled child who is present at meal time, except due to a special event or unusual circumstance.

16.5. Quantity for Daily Requirements. A center shall follow meal patterns listed in Appendix 78-1 D of this rule and serve a child:

16.5.a. Who is in attendance from four (4) hours to seven (7) hours, a quantity of food that will supply a minimum of one-third (1/3) of the daily requirements of the current Dietary Guidelines for Americans listed in Appendix 78-1 D of this rule;

16.5.b. Who is in attendance for eight (8) or more hours, a quantity of food that will supply one-third (1/3) to one-half (1/2) of the daily requirements of the current Dietary Guidelines for Americans as listed in Appendix 78-1 D of this rule; and

16.5.c. Servings of food appropriate to the age of the child, and make additional food available for the child who has eaten the food served and is still hungry.

16.6. Requirements for Milk and Juice.

16.6.a. A center shall serve the child only pasteurized, inspected, Grade A approved milk to drink, and shall not use powdered milk except for cooking.

16.6.b. A center shall serve the child only commercially pasturized, one hundred (100) percent fruit juice to drink.

16.7. Food Service. A center shall serve food according to the following:

16.7.a. A center shall provide a child with age-appropriate and developmentally suitable eating utensils;

16.7.b. Staff members shall encourage a child to eat the food served, but shall not coerce or force feed a child;

16.7.c. Staff members shall eat meals and snacks with a child twenty-five (25) months of age and over and shall eat the same food as the child unless excused from eating specific foods for medical or religious reasons; and

16.7.d. The meals shall be served in a setting that encourages socialization, where the children and staff members are seated when eating, and staff members provide supervision and model positive eating behaviors and social interactions.

16.8. Menus.

16.8.a. A center shall post menus for all food served a minimum of one (1) week in advance for the parent to see;

16.8.b. A center shall follow written menus as planned and write any changes on the posted menus; and

16.8.c. A center shall date menus and keep them on file for a minimum of two (2) months.

16.9. Food Safety. A center shall ensure that:

16.9.a. Food preparation areas, service areas, storage areas, and equipment and utensils are clean and in good repair;

16.9.b. An off-site supplier of meals or snacks has a Food Service Permit;

16.9.c. The Bureau for Public Health has approved the method of transporting and distributing the food taken for a child to consume during a field trip;

16.9.d. With the exception of bottles of formula, expressed breast milk, or previously unopened containers of baby food brought to a center by a parent for consumption by his or her own child, a center serves only food and beverages provided by a center or brought into a center from an approved source as defined by the health department;

16.9.e. Leftover portions of food that have been served are discarded;

16.9.f. Prior to serving milk to a child, except when its original container is a single service container, staff shall pour the milk from the original container into a clean, sanitized and labeled bottle or a disposable, sterile bottle liner, or into a sanitized glass or single-service cup and shall not pour the milk back to its original container or store it for later use;

16.9.g. Ice is made with water from an approved source; and

16.9.h. Ice used for cooling is not consumed by the child, and water from melted ice used for cooling does not contaminate food to be served.

16.10. Additional Nutrition and Feeding Requirements for a Child Twelve (12) Months and Under.

16.10.a. A center caring for a child twelve (12) months and under shall feed the child according to a plan developed in consultation with the parent and may include advice from the child's licensed health care provider.

16.10.b. When a child is being breast fed, a center shall ensure that the child's plan makes a provision for the mother to provide sufficient portions of breast milk or an alternative to satisfy the child throughout the day, and a center shall not give commercial formula to the child receiving breast milk without written permission from the mother.

16.10.c. For the child between six (6) months and three (3) years of age a center shall not replace formula or breast milk with water.

16.10.d. Until a child is able to hold a bottle securely, a staff member shall hold the child while bottle feeding. When a child is no longer being held for feeding, the staff shall ensure that seating is age-appropriate and shall not prop bottles or allow the child to carry a bottle while moving about or walking.

16.10.e. For food safety a center shall:

16.10.e.1. Store perishable food, formula and expressed breast milk in the refrigerator;

16.10.e.2. Clearly label each bottle of formula or breast milk with the child's name, contents and the date received;

16.10.e.3. Cap bottles of formula or breast milk when they are not being used;

16.10.e.4. Not use a microwave oven to warm a bottle of formula or breast milk;

16.10.e.5. Clean and sanitize bottles, bottle caps, and nipples by washing in a dishwasher and storing them in a sanitary manner, or by boiling them for five (5) minutes immediately before filling them;

16.10.e.6. Handle baby food in the following manner:

16.10.e.6.A. A center shall not accept previously opened baby food containers;

16.10.e.6.B. A center shall remove commercially packaged baby food from its container and serve it in a clean bowl or cup;

16.10.e.6.C. A center shall not place solid food in a bottle or feeder apparatus and shall use a spoon to feed solid food in a sanitary manner; and

16.10.e.6.D. A center shall discard leftover food that has come into contact with the feeding spoon.

16.10.e.7. A center shall handle breast milk and formula in the following manner:

16.10.e.7.A. Store breast milk in hard plastic or glass bottles with tight lids only;

16.10.e.7.B. Remove breast milk and bottles of formula from the refrigerator immediately before using only;

16.10.e.7.C. Discard breast milk or formula when it remains at a temperature higher than forty-one (41) degrees Fahrenheit for more than one (1) hour; and

16.10.e.7.D. Use refrigerated breast milk within twenty-four (24) hours of receipt and frozen breast milk within two (2) weeks of receipt if it is reported that it has been stored in the freezer.

16.10.f. In order to provide sufficient amounts of safe drinking water, the center shall ensure that:

16.10.f.1. Drinking water is available to children and staff members and is freely accessible at all times to a child thirteen (13) months of age and over; and

16.10.f.2. A single service drinking cup is discarded after one use, and a non-disposable cup or glass is washed and sanitized after each use.

§78-1-17. Sanitation.

17.1. Personal Hygiene. All individuals on the center premises or participating in center activities shall practice good personal hygiene, including:

17.1.a. Hand Washing.

17.1.a.1. Staff members shall wash their hands before starting work; and

17.1.a.2. Staff members and children shall wash their hands with soap and warm, running water for at least twenty (20) seconds:

17.1.a.2.A. When hands are contaminated with body fluids;

17.1.a.2.B. Before preparing, handling or serving food, or setting the table;

17.1.a.2.C. After toileting, hanging diapers or assisting a child with toilet use;

17.1.a.2.D. Before and after eating meals or snacks;

17.1.a.2.E. After handling pets or other animals;

17.1.a.2.F. Before giving medication;

17.1.a.2.G. After playing outdoors;

17.1.a.2.H. After handling garbage; and

17.1.a.2.I. After removing gloves used for any purpose.

17.1.b. Universal Precautions. With the exception of breast milk, staff members shall adopt universal precautions when exposed to blood and body fluids that might contain blood.

17.1.c. Diapering and Toileting. A center shall ensure that diapering and toilet training follow the guidelines in Appendix 78-1-E.

17.1.c.1. Toilet Training.

17.1.c.1.A. A center shall discuss toilet-training methods with the parent of the child being toilet trained.

17.1.c.1.B. Staff members shall not use any form of punishment in connection with toilet training.

17.1.c.1.C. Staff members shall not force a child to sit on a potty or training chair.

17.1.c.2. Toilet Equipment and Fixtures.

17.1.c.2.A. A center shall disinfect the potty or training chairs after each use; and

17.1.c.2.B. A center shall provide toilet fixtures that are sized so that the child can use them without assistance, provide step stools, or modified toilet seats that are safe and easily disinfected.

17.2. Physical Facilities.

17.2.a. A center shall keep all areas of the premises and all equipment clean and in a neat and orderly condition at all times.

17.2.b. The center shall ensure that floors, walls and ceilings are of easily cleanable material.

17.2.c. The center shall ensure that the floor area immediately adjacent to the diaper changing table has a moisture-resistant, non-absorbent surface extending three (3) feet from the base of the table on all sides, except when one side of the table is against a wall.

§78-1-18. Animals.

18.1. A center shall ensure that animals on the premises shows no signs of disease or illness.

18.2. The center shall maintain documentation of current vaccinations on all dogs and cats.

18.3. A center shall not have on the premises ferrets, birds, reptiles, including snakes, lizards and turtles, or any wild or dangerous animals.

18.4. A center shall ensure that a staff member is always present when a child is with an animal.

18.5. A center shall inform the child's parent in advance of the presence of animals at the center.

§78-1-19. Safety and Emergency Operating Procedures.

19.1. A center shall develop, implement and maintain attendance policies and procedures to ensure that it has a current and updated written record of the first and last name of each child who is participating in center activities, onsite and offsite, and who is being transported in a vehicle provided by the center.

19.2. Daily Attendance Sign-In and Sign-Out.

19.2.a. A center shall arrange for a designated adult to sign each child in as the child arrives at the center or boards a vehicle provided by the center, and to sign each child out as the child departs the center or leaves a vehicle provided by the center.

19.2.b. A center shall require the following sign-in and sign-out information:

19.2.b.1. Arrival time including the date and time;

19.2.b.2. Departure time including the date and time;

19.2.b.3. The name and signature of the adult who drops off the child; and

19.2.b.4. The name and signature of the adult who picks up the child.

19.2.c. A center shall have an attendance procedure for notifying the parent when a school age child does not arrive as scheduled.

19.3. Transportation Log.

19.3.a. A center shall provide a passenger log to be kept either by the driver of the vehicle or the designated staff member riding on the vehicle that shall include the first and last names of each child boarding the vehicle;

19.3.b. Immediately upon unloading the last child from a vehicle at the center or on field trips, or before parking the vehicle, the driver or the designated staff member shall physically search the vehicle to ensure that all children have been unloaded;

19.3.c. The driver or the designated staff member shall deliver the transportation log to the person responsible for maintaining attendance records; and

19.3.d. The driver or designated staff member shall ensure that attendance records are updated by the end of the day if the vehicle is parked at another location.

19.4. Daily Roster.

19.4.a. A center shall prepare a written, daily roster that includes the first and last names of each child in each group of children, the name of the staff member responsible for the group, and the space designated for use by the group both at the center and at off-site locations used during field trips.

19.4.b. Periodically throughout the day, the staff member responsible for each group of children shall check the daily roster to ensure that all children are present or accounted for.

19.4.c. A center shall keep each daily roster in a designated location where it is readily available in case of emergencies and can be used to confirm attendance following an evacuation from the premises or upon returning from a field trip.

19.4.d. A center shall ensure that its attendance procedures include accounting for a child at all times and taking action when a child is lost on or off the premises.

19.5. A center shall develop and maintain an emergency file with information for each enrolled child that is accessible to all staff members, including at off-site activities.

19.6. A center shall develop, implement and maintain policies and procedures for responding to an emergency, including a plan:

19.6.a. For a medical and non medical emergencies and for situations that could pose a hazard to staff and children, including, a fire, storm, flood, chemical spill, power failure, bomb threat or kidnaping;

19.6.b. For evacuation from a center in the event an emergency that could cause damage to the center or pose a hazard to the staff and children and evacuation from a vehicle used to transport children. Policies and procedures shall consider the age and physical and mental abilities of the enrolled children, types of emergencies that are likely to affect the area, the requirements of the State Fire Marshal; and advice from the Red Cross or other health and emergency professionals.

19.6.c. For documenting the review of its emergency plans with new staff during orientation and with all staff at least once a year;

19.6.d. For a medical emergency that identifies staff responsible for implementing the plan and includes:

19.6.d.1. The procedures to be followed;

19.6.d.2. The location of a center's first aid kit and other emergency supplies;

19.6.d.3. The location of the child's emergency information;

19.6.d.4. The name, address and telephone number of a health professional or facility available to provide medical consultation to the center;

19.6.d.5. The name, address, telephone number and location of the emergency facility to be used when a center cannot reach the child's parent, licensed health care provider, or when transporting the ill or injured child to the preferred hospital could result in a serious delay in obtaining medical attention;

19.6.d.6. Identification of a means of transportation that is always available in case of an emergency, and telephone numbers for an ambulance or other transportation that might be required; and

19.6.d.7. Other emergency telephone numbers as required in this rule.

19.6.e. For a non medical emergency that identifies staff members responsible for implementing the plan and includes:

19.6.e.1. The procedures to be followed;

19.6.e.2. The location of the center's first aid kit and other emergency supplies;

19.6.e.3. The location of the child's attendance records and emergency information;

19.6.e.4. The identification of a safe location within a center where a children and staff members can stay until the threat of danger passes;

19.6.e.5. A diagram of the routes to be used by the child and staff members to reach the safe location and a copy of the plan for moving to the safe location that a center shall post by the telephone and in each room of the center;

19.6.e.6. A procedure for notifying the local fire department when a center offers evening or nighttime care;

19.6.e.7. A procedure for practicing moving to the safe location within a center at least two (2) times a year, or when the center operates a summer recreation camp program, at least every two (2) weeks and, within the first two (2) days of each enrollment cycle;

19.6.e.8. A procedure for maintaining a written record of the dates and times when the practice sessions are conducted; and

19.6.e.9. A procedure for ensuring that a staff member determines that all of the children attending at the time of the non medical emergency are safe during an emergency or practice.

19.7. Evacuation and Drill Plan.

19.7.a. A center shall have a plan for evacuating the center in an emergency posted by the telephone in each room of the center that identifies staff members responsible for implementing the plan and includes:

19.7.a.1. The procedures to be followed;

19.7.a.2. The location of the child's attendance records and emergency information;

19.7.a.3. A diagram of safe routes by which the child and staff members may exit each area of the center used by the child; and

19.7.a.4. The name and address of a location with a telephone, such as another center, school or public building, that is available for a child and staff members to use until the center can contact the child's parent.

19.7.b. A center shall conduct a fire drill at least two (2) times a month during its regular hours of operation, keeping a written record of the dates and times when fire drills are conducted.

19.7.c. When a center offers evening or night time care, a center shall also conduct fire drills during

the hours of operation of its evening or night time program at least once a month.

19.7.d. A center shall ensure that a staff member is responsible for determining that all of the children attending at the time of the event have been evacuated safely during an emergency evacuation or practice.

19.8. Evacuation from a Vehicle.

19.8.a. A center shall have a plan for evacuating from a vehicle that is posted in each vehicle regularly used by the center to transport a child and includes:

19.8.a.1. The procedures to be followed;

19.8.a.2. The location of the vehicle's first aid kit and other emergency supplies;

19.8.a.3. The location of the vehicle's transportation passenger log and the children's emergency information; and

19.8.a.4. The name and address of the emergency medical facilities closest to the vehicle's route.

19.8.b. When it provides transportation according to a regular schedule, a center shall conduct a vehicle evacuation drill at least two (2) times a year.

19.8.c. A center shall maintain a written record of the dates and times when vehicle evacuation drills are conducted.

19.8.d. A center shall ensure that a staff member is responsible for determining that all of the children have been evacuated safely during an emergency evacuation or practice.

19.9. Staff Responsibility Regarding Medical Emergencies and Evacuation.

19.9.a. For a medical emergency at a center, a center shall develop, implement and maintain procedures for ensuring that staff members:

19.9.a.1. Attend to the injured child with first aid or follow appropriate emergency procedures if the child is experiencing an acute condition, including an asthma attack, seizure, or life-threatening anaphylactic reaction;

19.9.a.2. Notify the parent or other individual designated by the parent to assume responsibility for the child and inform him or her of the child's illness or injury and the center's response; and

19.9.a.3. Complete the required documentation.

19.9.b. For a medical emergency requiring treatment at a medical facility, a center shall provide staff to:

19.9.b.1. Accompany the ill or injured child to the medical facility;

19.9.b.2. Ensure that signed authorization for treatment accompanies the ill or injured child to a medical facility;

19.9.b.3. Notify the parent or other individual designated by the parent to assume responsibility for the child and inform him or her of the child's illness or injury and the center's response;

19.9.b.4. Inform the medical facility that the ill or injured child is being transported for treatment; and

19.9.b.5. Obtain substitute staff, if needed, to provide adequate supervision for the children who remain at the center.

19.9.c. A center shall ensure that staff members are informed of their responsibilities in the event of an evacuation of the premises or a center's vehicle, as required by a center's procedures and notify the Secretary.

19.10. First Aid Kit. A center shall provide a first aid kit for every twenty (20) children that is stored in clear view where it is accessible to staff members, but out of reach of the children. The kit shall be:

19.10.a. Equipped with band aids, a non mercury thermometer, gauze, tape, scissors, tweezers, disposable nonporous gloves, a first aid guide, the telephone number of a poison control center, coins for a pay telephone, and pencil and paper; and

19.10.b. Readily available at all times, including in the outdoor play area, on all field trips away from the center and in each vehicle provided by the center for the transportation of children.

19.11. Telephone. A center shall provide at least one (1) operable, direct-line telephone that is in the center space, is not a pay station or locked telephone, and is available during the center's hours of operation.

19.11.a. Close to the location of each telephone, a center shall post:

19.11.a.1. The name, address and telephone number of the center;

19.11.a.2. A list of emergency numbers, including 911, the fire department, police department, ambulance service, the center's medical consultant and a poison control center;

19.11.a.3. When a center operates at more than one (1) site, the name and telephone number of the center's principal place of business; and

19.11.a.4. When a center occupies space it does not own, the name and telephone number of the owner of the building.

19.11.b. When a center operates a summer recreation camp program at a site where a direct-line telephone is not available:

19.11.b.1. If the site is within range of a cellular phone or other communication device, a center shall ensure that staff members are equipped with a cellular phone or other device in working order; and

19.11.b.2. If the site is not within range of a cellular phone or other communication device, a center shall ensure that staff members have a plan for contacting help in the case of an emergency.

19.12. Reporting a Serious Occurrence. A center shall:

19.12.a. Immediately inform the parent or parent's authorized designee when a child is involved in a serious occurrence;

19.12.b. Verbally report the occurrence within twenty-four (24) hours or by the next work day to the Secretary, and before the end of the day, ensure that the staff member in charge prepares and signs a serious occurrence report; and

19.12.c. Complete a report of each serious occurrence ensuring that the report is signed by the staff member completing it and by the child's parent. Copies of the report are to be placed in the child's file and in a separate cumulative file maintained by the center.

§78-1-20 Environmental Safety.

20.1. A center shall take all necessary precautions to ensure an accident-free and smoke-free environment for the children, staff members and visitors to the center:

20.1.a. Smoking and spit tobacco use is prohibited on the premises and everywhere in the presence of children.

20.1.b. Smoking is prohibited anytime in vehicles operated by the center, even in the absence of children.

20.1.c. Staff shall ensure that children will not see anyone smoking or using any tobacco products while at the day care center.

20.1.d. All tobacco products, lighters and matches shall be kept out of the children's reach.

20.2. Safety of Premises, Furnishings, Equipment and Supplies. A center shall:

20.2.a. Ensure that the premises, furnishings, equipment and supplies are in good repair and present no hazard to the health and safety of the children;

20.2.b. Only use furnishings, equipment and supplies that meet the standards of the Consumer Product Safety Commission and shall not use any product recalled by the CPSC;

20.2.c. Position indoor and outdoor furnishings, equipment and supplies to:

20.2.c.1. Allow a child freedom to participate in center activities;

20.2.c.2. Permit direct access to emergency exits; and

20.2.c.3. Provide clear sight lines for staff supervision.

20.2.d. Ensure that sleeping equipment, including cribs, playpens, cots and beds are a minimum of

twenty-four (24) inches apart from each other on all sides, except when one side of the sleeping equipment is against a wall;

20.2.e. Maintain a temperature not less than sixty-eight (68) degrees Fahrenheit at floor level and not higher than eighty-five (85) degrees Fahrenheit, in all rooms occupied by a child;

20.2.f. To ensure sufficient lighting, the center shall:

20.2.f.1. Provide a minimum of fifty (50) foot candles of illumination at floor level, in rooms occupied by a child for program activities ;

20.2.f.2. Provide at least thirty (30) foot candles of illumination at floor level in areas not occupied by a child;

20.2.f.3. Provide light for supervision when a child is sleeping; and

20.2.f.4. Provide outdoor lighting at all entrances and exits used by a child when a center operates evening or nighttime programs;

20.3. Potential Hazards of Premises, Furnishings, Equipment and Supplies.

20.3.a. A center shall prohibit firearms unless carried by a regulatory or law enforcement professional in the line of duty; and projectile weapons, including pellet or BB guns, darts, cap pistols, bows and arrows, slingshots and paint ball guns.

20.3.b. Hazardous Items. A center shall ensure that:

20.3.b.1. Products containing potentially hazardous chemicals, including identified poisons, medications, certain cleaning supplies, and art supplies not clearly labeled as "nontoxic," are inaccessible to the children in a locked cabinet away from food, and when possible, stored in their original containers and never in containers originally designed for food; and

20.3.b.2. For each product containing potentially hazardous chemicals, a center has on file a material safety data sheet, available at the point of purchase or from the manufacturer.

20.3.c. Lead Paint. A center shall remove lead paint from the premises according to current safety standards and at a time when the children are absent during the entire removal process.

20.3.d. Electrical Equipment.

20.3.d.1. Electrical cords. A center shall ensure that each electrical cord is insulated and in good repair.

20.3.d.2. Extension cords and plug-in strips. A center shall not use an electrical extension cord except on a temporary basis, but if using it shall ensure that the cord is in good repair. A center may use an electrical multiple plug-in strip with a circuit breaker in good repair.

20.3.d.3. Electrical Outlet. A center shall ensure that when an electrical outlet within reach of a child is not in use, it is protected by a cover.

20.3.d.4. Electrical Appliance. A center shall not locate an electrical appliance in an area used by a child except for a brief period when an adult supervises the use of the electrical appliance for a program.

20.3.e. Microwave Oven. If a center uses a microwave oven, the center shall train staff members in the correct use and potential dangers of the oven and post a warning on or near the oven to check the temperature of food heated in the oven before feeding it to a child.

20.3.f. Heating Devices. A center shall provide a shield to protect the children from a hot pipe or radiator and shall not use unvented fuel fire heaters.

20.3.g. Doors. A center shall ensure that:

20.3.g.1. All doors close properly and fire doors are closed at all times; and

20.3.g.2. All clear glass doors are clearly marked at the children's eye level.

20.3.h. Floors. A center shall firmly anchor all floor coverings.

20.3.i. Barriers and Gates. The center shall ensure that:

20.3.i.1. All temporary walls or items being used as physical barriers are firmly anchored so that they pose no threat to the safety of the child; and

20.3.i.2. Stairways to which the child has access have appropriate railings and safety gates or other barriers at the top and bottom.

20.3.j. Strings, Cords and Hanging Items.

20.3.j.1. When a child wears a piece of clothing with a drawstring, a center shall:

20.3.j.1.A. Inform the child's parent of the potential risk of strangulation; and

20.3.j.1.B. Ensure that prior to the child's participation in an activity, staff members remove or secure any drawstring that might pose a risk to the child.

20.3.j.2. Pacifiers. A center shall ensure that a pacifier attached to a string or ribbon that is six (6) inches or more in length, is not placed around a child's neck or affixed to the child's clothing.

20.3.j.3. A center shall ensure that a child under school age does not have access to a string or cord that is six (6) inches or more in length and attached to a fixed object, such as a window shade, or access to other hanging items, such as a tablecloth.

20.4. Outdoor Safety.

20.4.a. Barriers and Exits.

20.4.a.1. A center shall ensure that the outdoor play area for a child under school age:

20.4.a.1.A. Is enclosed on all sides by a natural barrier or secure fence that is at least four (4) feet high with a bottom edge that is less than three and one-half (3 ½) inches from the ground;

20.4.a.1.B. If it has a fence, the fence has no openings greater than three and one-half (3 ½) inches;

20.4.a.1.C. If it has a natural barrier, the barrier has the strength and density to prevent humans and animals from entering or exiting the playground;

20.4.a.1.D. If it is attached to a building, that the barrier or fence provides at least two (2) exits from the play area, including one (1) exit that is at a distance from the building; and

20.4.a.1.E. When it has an exit that does not lead directly indoors, that it is protected by a gate equipped with a closure mechanism that is out of the reach of a small child and prevents the child from leaving the play area, but can be easily opened by an adult.

20.4.a.2.A center may use an unenclosed outdoor play area for school-aged children if determined to be hazard-free by the Secretary.

20.4.b. Surfaces for Play Area. A center shall have up to four (4) years from the effective date of this rule to comply with the requirements of this section to ensure:

20.4.b.1. That the play area has more than one (1) type of surface, including a surface that is suitable for children's wheeled vehicles and pull toys;

20.4.b.2. That the surface of the play area in an equipment use zone is composed of:

20.4.b.2.A. Loose fill, including sand, pea gravel, shredded tires, wood chips or wood mulch, to a depth of at least six (6) inches, increasing with the height of the equipment to twelve (12) inches as recommended by the CPSC in Appendix 78-1 F of this rule;

20.4.b.2.B. A unitary surface, such as rubber tiles or mats, or rubber poured in place; or

20.4.b.2.C. An appropriate combination of loose fill and unitary surface material.

20.4.b.3. That hard surface materials, such as asphalt, concrete, bricks, blocks, dirt and grass, are not used in equipment use zones;

20.4.b.4. That appropriate surface materials are located directly under equipment and extend six (6) feet in all directions from the perimeter of the equipment, except from swings where they extend according to the following:

20.4.b.4.A. For single-axis, traditional swings, through a use zone that is twice the height from the ground to the crossbar, front and back; and

20.4.b.4.B. For tire swings that rotate, six (6) feet beyond the farthest reach of the tire in all directions.

20.4.b.5. That concrete footings are covered by surface material to a depth that is adequate to prevent injury from a fall as recommended by the CPSC in Appendix 78-1 E of this rule.

20.4.c. Hazards. A center shall ensure that:

20.4.c.1. The play area is well drained and free of debris;

20.4.c.2. The outdoor environment is clear of hazards, including pits and abandoned wells, tree roots, appliances and all potential hazards, including heat pumps, air conditioning units and external wiring, meters and telephone boxes, are inaccessible to the child;

20.4.c.3. The child is protected from traffic, including on the street; and

20.4.c.4. When there is reason to believe that exposure to the soil in the outdoor play area might harm the child, a center shall have on file evidence that the soil does not contain hazardous levels of any toxic chemical or substances.

§78-1-21. Pest Management.

21.1. A center shall document that they have an integrated pest management program as required by the WV Department of Agriculture.

21.2. A center shall provide for insect and rodent control that does not compromise the safety of children.

§78-1-22. Transportation.

22.1. When providing transportation, a center shall ensure that:

22.1.a. The vehicle used is currently licensed, inspected, insured, and is equipped with signs and warning lights or alternative warning devices as required by W. Va. Code §17C-2-7a;

22.1.b. The driver is at least twenty-one (21) years of age and holds a current driver's license;

22.1.c. The driver or qualified staff member ensures that each child three (3) years of age and under is secured in an approved child safety seat, and each child more than three (3) years of age is secured with seat belts at a ratio of one child per seat belt; and

22.1.d. The vehicle is equipped with emergency supplies, including a first-aid kit and fire extinguisher.

§78-1-23. Enforcement Actions.

The Secretary may revoke or make a license provisional, or issue an order of closure to a Day Care Center in accordance with W. Va. Code §§49-2B-11 and -12.

§78-1-24. Administrative and Judicial Review.

24.1. In accordance with the provisions of W. Va. Code §49-2B-13, an applicant or licensee aggrieved by a

decision of the Secretary may seek an administrative review of the decision by making a request for a hearing by the Secretary within thirty (30) days of receiving notice of the decision.

24.2. An applicant or licensee may seek immediate relief from a decision of the Secretary by a showing of good cause made by verified petition to the circuit court of Kanawha County or the circuit court of the county in which the affected center is located.

78CSR1

**TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF HUMAN SERVICES**

**SERIES 1
DAY CARE CENTERS LICENSING**

APPENDICES

78-1 A: CORE COMPETENCIES OF EARLY CHILDHOOD EDUCATORS

78-1 B: EQUIPMENT AND MATERIALS FOR PROGRAM ACTIVITIES

78-1 C: REPORTABLE ILLNESSES

78-1 D: NUTRITION - FOOD GROUPS AND MEAL PATTERNS

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APPENDIX 78-1 A: CORE COMPETENCIES OF EARLY CHILDHOOD EDUCATORS

Core Competencies of Early Childhood Educators have been developed in West Virginia to identify the skills and knowledge that early childhood educators need to effectively serve young children and their families. In West Virginia, it is implicitly understood that these competencies are necessary to promote the optimal development of all children, including those with special needs, and that activities and environments should be adapted to accommodate each child's learning modality and style.

The Core Competencies of Early Childhood Educators developed in West Virginia are based on the National Association for the Education of Young Children's (NAEYC) *Guidelines for the Preparation of Early Childhood Professionals* and the requirements for the Child Development Associate (CDA) credential. A competent early childhood educator:

Safety

- Provides a safe environment to prevent and reduce injuries;
- Is attentive to children's activities;
- Has skills and knowledge to prevent injuries and handle emergencies and injuries appropriately when they occur;
- Has formal training and current Certification in First Aid for children, including rescue breathing; and
- Recognizes indicators of child abuse and neglect and understands legal responsibility to report suspected child abuse.

Health

- Is familiar with what diseases require exclusion of children; what diseases require isolation of children in attendance; and what diseases and conditions can be included in the regular classroom;
- Models and promotes good health and nutrition habits;
- Provides environment that contributes to the prevention of illness;
- Nurtures children's developing identity and feelings of self-worth;
- Integrates health care activities into the curriculum;
- Can identify symptoms of common early childhood illnesses;
- Provides for nutritional needs of children as specified under USDA; and
- Can demonstrate effective procedures to prevent the spread of disease.

Environment

- Appropriately addresses issues of space, social relationships, materials and routines in setting the environment;
- Promotes warm, positive, nurturing and respectful interactions among providers, children and families;
- Creates an interesting, secure and enjoyable environment that encourages play, exploration and learning;
- Supports a broad array of experiences;
- Establishes a reliable routine;
- Maintains an appropriate adult/child ratio; and
- Encourages visits and participation by parents and includes families as partners in the provision of services.

Physical Development

- Provides a variety of equipment, activities and opportunities to promote the physical development of children;
- Provides for physical development, including large and small muscle strengthening, coordination and control;
- Recognizes, respects and accommodates wide differences in individual rates of physical development;
- Demonstrates an understanding of patterns and stages of a child's physical growth; and
- Observes and discusses with parents and notes in writing any unusual patterns of growth or unusual behavior that might be related to physical capability.

Cognitive Development

- Provides activities and opportunities that encourage curiosity, exploration and problem-solving;
- Uses developmental criteria and an understanding of learning styles in working with children;
- Responds to children's interests by providing new learning opportunities;
- Responds to children's questions with information and enthusiasm;
- Respects the relationship of cognitive development to other areas of development (physical, social and emotional);
- Demonstrates an understanding of patterns and stages of a child's cognitive growth; and
- Understands and can explain to parents the ways in which each of the activities for children contribute to cognitive development.

Development of Creativity

- Provides opportunities that stimulate children to play with sound, rhythm, language, materials, space and ideas in individual ways;
- Supports and respects children's expression of creative abilities;
- Encourages spontaneous expression; and
- Expands children's imaginations.

Communication

- Communicates verbally and non-verbally with other staff to create a well-functioning team;
- Models good communication skills;
- Provides opportunities and support for children to understand, acquire and use verbal and non-verbal means of communicating thoughts and feelings;
- Provides ample opportunity for children to listen, interact and express themselves freely with other children and adults; and
- Demonstrates an understanding of the patterns and stages of a child's language development.

Self

- Provides physical and emotional security for each child;
- Helps each child to know, accept and take pride in himself or herself;
- Helps children develop independence;
- Demonstrates and encourages respect for and valuing of cultural, racial, gender, socio-economic and physical ability differences;
- Supports the child's self-esteem by providing opportunities for children to master new abilities, to experience success and safely make mistakes;
- Helps children find their own ways to handle increasingly challenging tasks;
- Demonstrates an understanding of patterns and stages of a child's self-growth;
- Recognizes each child as a unique person and establishes a caring relationship; and
- Recognizes each child's identity as part of a family and works in partnership with parents.

Social

- Helps each child feel secure and accepted in the group;
- Helps children Learn to communicate and get along with others;
- Encourages feelings of empathy and mutual respect among children and adults;
- Integrates multi-cultural and anti-bias themes, literature and experience in all curriculum areas;
- Demonstrates an understanding of patterns and stages of a child's social development; and
- Demonstrates the ability to facilitate the development of group cooperation among the children and to contribute to a feeling of community and family supportiveness in the program as a whole.

Guidance

- Provides a supportive environment in which children learn and practice appropriate and acceptable behaviors;
- Provides consistent limits and realistic expectations;
- Clearly and positively defines expectations;
- When setting expectations, takes into account each child's development and needs;
- Supports children's efforts to independently resolve their own problems;
- Discusses guidance with parents and makes sure that children understand any differences in approach between the home and the program; and
- Demonstrates ability to use positive methods of guidance rather than punishment.

Families

- Supports the family's role as primary care giver and teacher of their children;
- Respects and supports each child's cultural, racial and socio-economic background;
- Creates and maintains open, friendly, cooperative relationships with each child's family;
- Encourages each family's involvement in the program in a variety of ways, responsive to each family situation:
 - Supports the child's relationship with his or her family;
 - Respects the diverse values of families;
 - Individualizes referrals to community resources for families;
 - Recognizes children and families with emotional distress, abuse and neglect, and provides avenues of assistance;
 - Establishes regular communication with parents to gain needed information about the child's life outside the program and give parents needed information about the child's play; and

- Generates opportunities for the program and parents to collaborate.

Program Management

- Works cooperatively with co workers and families;
- Has a systematic approach to organizing, planning and keeping records;
- Delegates responsibility;
- Uses all available resources to ensure effective operation;
- Keeps accurate records of needs, plans and practices; and
- Observes and records children's behavior, and makes plans based on observed needs.

Professionalism

- Makes decisions based on knowledge of early childhood theories and practices;
- Promotes quality in child care services;
- Takes advantage of opportunities to improve competence;
- Continues to set new goals, and takes initiative;
- Works to resolve issues and problems cooperatively and respectfully;
- Advocates for quality child care;
- Develops relationships with other child care professionals for support and information exchange;
- Is familiar with and assists families in accessing available community resources; and
- Joins professional organizations and plays responsible role.

Source: West Virginia Professional Development System.

APPENDIX 78-1 B: EQUIPMENT AND MATERIALS FOR PROGRAM ACTIVITIES

TABLE A: EQUIPMENT AND MATERIALS FOR THE CHILD UP TO 6 MONTHS OF AGE	
Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Mirrors: well-secured crib and wall mirrors; Dolls: soft-bodied or rag dolls; Stuffed Toys: washable stuffed toys and play animals; Puppets: simple hand puppets of visual and social interest for holding by adults.
Exploration and Mastery of Skills and Language	Visuals: materials that provide a focus for the child's eyes; Grasping Toys: simple rattles, teething toys, squeeze toys, sturdy cloth toys, disks or keys on a ring, interlocking rings, grasping balls.
Music, Art and Movement	Musical Instruments: bell on a handle, wrist or ankle bells, rattles; Audio-Visual: adult-operated music boxes, tapes or discs with gently rhythmic songs or lullabies.
Gross Motor	Large-Movement: balls to clutch.

TABLE B: EQUIPMENT AND MATERIALS FOR THE CHILD 7 TO 12 MONTHS OF AGE	
Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Mirrors: well-secured wall mirrors, unbreakable hand mirrors; Dolls: soft-bodied or rag dolls; Stuffed Toys: washable stuffed toys and play animals, soft rubber or vinyl animals for grasping and exploring; Puppets: simple hand puppets of visual and social interest for holding by adults; Transportation: simple transportation toys of one piece with wheels or rollers that may make a noise when pushed (for the child who can sit and is mobile).
Exploration and Mastery of Skills and Language	Grasping Toys: teething toys, beads on rings, rubber or plastic pop beads, squeeze-squeak toys, sturdy cloth toys, disks or keys on a ring, interlocking rings, grasping balls; Construction: light-weight blocks for grasping and stacking; Puzzles: simple two- or three-piece fit-together objects used as grasping toys; Skill-Development: pop-up boxes, simple activity boxes or cubes, texture pads, simple nesting cups, stacking ring cones, containers to empty and fill; Books: small picture books of cloth or plastic or cardboard to hold; simple picture books for lap reading.
Music, Art and Movement	Art and Crafts: large, nontoxic crayons, large paper taped to a surface; Musical Instruments: bell on a handle, wrist or ankle bells, rattles or materials that make a sound when shaken, banging materials that are simple and light-weight; Audio-Visual Materials: adult-operated tapes or discs with simple rhymes and songs.
Gross Motor	Large-Movement: push and pull toys without rods, such as simple cars on large wheels or rollers; Balls and Sports: balls, including clutch and texture balls, chime, flutter and action balls; Outdoor and Gym: safe swings sized and designed for infants, low soft or padded climbing platforms for the child who crawls.

TABLE C: EQUIPMENT AND MATERIALS FOR THE CHILD 13-24 MONTHS OF AGE

Type of Materials	Types of Supplies and Equipment
<p>Social and Fantasy</p>	<p>Mirrors: well-secured unbreakable wall mirrors, unbreakable full-length and hand mirrors; Dolls: soft-bodied or washable rubber or vinyl baby dolls (no moving eyes or articulated limbs), simple accessories for care giving (feeding, diapering and sleeping), doll clothes that are simple and removable, and (from about 18 months) small peg or other people figures that can not be swallowed; Stuffed Toys: washable, soft animals with features that are painted, stitched or molded and soft rubber or vinyl animals for exploration and beginning pretend play; Puppets: hand puppets for holding by adults and (from about 18 months) small hand puppets sized to fit the child's hand; Transportation: simple, light-weight vehicles, with large wheels or rollers, that are light-weight, rounded or molded in appearance and may make a noise when pushed, first trains with one or two cars and a simple or no coupling system but no tracks, and (from about 18 months) more detailed vehicles or trains with simple coupling systems such as wood links, blunt hooks or magnets; Role-Play: play telephone, simple housekeeping and work-role equipment, simple doll equipment; Play Scenes: (from about 18 months) small people or animal figures with simple supporting materials such as a vehicle or barn, or unit blocks to make familiar scenes.</p>
<p>Exploration and Mastery of Skills and Language</p>	<p>Grasping Toys: (the child may be losing interest in small hand-held manipulatives); Sand and Water: simple floating objects that are easily grasped in one hand, a small shovel and pail, and (from about 18 months) nesting materials for pouring, funnels, colanders, water activity centers and small sand tools; Construction: light blocks made of soft cloth, rubber or rounded plastic, wooden cubes for grasping and stacking (15 - 25 pieces) and (from about 18 months) unit blocks (20 - 40 pieces), large plastic bricks of the press together type; Puzzles: simple pre-puzzles or form boards in familiar shapes (2-3 pieces) and (from about 18 months) fit-in puzzles with very firmly attached knobs (3-5 pieces); Skill-Development: pop-up boxes that operate easily, simple activity boxes or cubes with doors, lids or switches, simple nesting cups and stacking materials, and (from about 18 months) activity boxes with more complex mechanisms such as a turning knob or dial or simple key, simple lock boxes, more complex nesting materials, objects in closed containers that may be opened, stacking materials (4-5 pieces), cylinder blocks, pegboards with a few large pegs, simple matching and lotto materials; Books: picture books made of cloth, plastic or cardboard, simple picture and rhyme books with repetition for lap reading, and (from about 18 months) touch-me or tactile books.</p>
<p>Music, Art and Movement</p>	<p>Art and Crafts: a few large, nontoxic crayons and large paper taped to a surface; Musical Instruments: rhythm instruments operated by shaking (bells, rattles) and (from about 18 months) instruments for banging (cymbals, drums); Audio-Visual Materials: adult-operated tapes or discs, music with simple repeating rhythms, rhymes and songs, and (from about 14 months) music to "dance" (bounce) to, and (from about 18 months) simple point-to and finger-play games and songs.</p>

Gross Motor	<p>Large-Movement - Push and Pull Toys : push toys with rods with large handles on the ends, toys to push along the floor, including simple cars or animals on large wheels or rollers, and (from about 18 months) simple doll carriages and wagons and push and pull toys filled with multiple objects; Balls and Sports: soft, light-weight balls especially balls with interesting audio or visual effects, larger balls including balls the size of beach balls, and (from about 18 months) balls for beginning throwing and kicking; Ride-On Equipment: stable ride-ons propelled by pushing with the feet, ride-ons with storage bins; Outdoor and Gym: climbing platforms that are low, sort or padded, tunnels for climbing through, baby swings made of energy-absorbing materials with seats curved or body shaped and a front closing, and (from about 18 months) low toddler stairs with handrails.</p>
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TABLE D: EQUIPMENT AND MATERIALS FOR THE CHILD 24-36 MONTHS OF AGE

Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Mirrors: well-secured unbreakable wall mirrors, unbreakable hand mirrors; Dolls: soft-bodied or washable rubber or vinyl baby dolls, simple accessories for care giving (feeding, diapering and sleeping), doll clothes that are simple and removable, small peg or other people figures for fantasy scenes; Stuffed Toys: soft rubber, wood or vinyl animals for exploration and pretend play, including mother and baby animals; Puppets: small hand puppets sized to fit the child's hand and representing familiar human and animal figures and community diversity; Transportation: small cars and vehicles to use with unit blocks; larger vehicles for pushing and fantasy play, large wood trucks to ride on, simple trains with coupling systems but no tracks; Role-Play: dress-up materials, housekeeping equipment, simple doll equipment; Play Scenes: small people or animal figures with simple supporting materials such as a vehicle or barn, or unit blocks to make familiar scenes.
Exploration and Mastery of Skills and Language	Sand and Water: people, animals and vehicles for fantasy play, small containers for pouring, small tools such as a shovel or scoop; Construction: wooden unit blocks, large plastic bricks, large nuts and bolts; Puzzles: 4-5 piece fit-in puzzles (from 24 months), and (from 30 months) 6-12 piece fit-in puzzles; Skill-Development: 5-10 pieces to nest or stack, simple lock boxes, hidden-object pop-up boxes, safe pounding/hammering toys, cylinder blocks, shape sorters, matching materials, color or picture dominoes, feel bags or boxes or smell jars; Books: sturdy books with heavy paper or cardboard pages, tactile or touch-me, pop-up or hidden picture and dressing books; Pattern-Making: peg-boards with large pegs, color cubes, magnetic boards with forms; Dressing, Lacing, Stringing: large beads, cards and frames.
Music, Art and Movement	Art and Crafts: large, nontoxic crayons and markers, adjustable easel, large paint brushes, nontoxic paint and finger paint; large paper, colored construction paper, blunt-ended scissors, chalkboard and large chalk; Musical Instruments: rhythm instruments operated by shaking (bells, rattles) or banging (cymbals, drums) and more complex instruments (tambourine, sand blocks, triangle, rhythm sticks); Audio-Visual Materials: adult-operated tapes or discs, music with repeating rhythms for rhythm instruments, music to "dance" to, simple point-to and finger-play games and songs, short films and videos of familiar objects and activities.
Gross Motor	Large-Movement - Push and Pull Toys : simple doll carriages and wagons, push toys that look like adult equipment; Balls and Sports: balls of all sizes, especially balls for kicking and throwing; Ride-On Equipment: stable ride-ons propelled by pushing with the feet, bouncing or rocking ride-ons, and (as the child nears 36 months) small tricycles; Outdoor and Gym: tunnels, appropriately sized and safe swings, low climbing structures and slides.

TABLE E: EQUIPMENT AND MATERIALS FOR THE CHILD 36-72 MONTHS OF AGE

Type of Materials	Types of Supplies and Equipment
Social and Fantasy	<p>Mirrors: full-length mirror, unbreakable hand mirrors; Dolls: washable rubber or vinyl baby dolls and (for the child over 60 months), child-proportioned dolls with culturally relevant features and skin tones, accessories for care giving (feeding, diapering and sleeping), doll clothes that are simple and removable, small peg or other people figures for fantasy scenes; Stuffed Toys: rubber, wood or vinyl animals for pretend play and to provide replicas of real domestic and wild animals for learning; Puppets: small hand or arm or finger puppets sized to fit the child's hand and representing familiar human and animal figures and community diversity, simple puppet theater; Transportation: cars and vehicles to use with unit blocks; larger vehicles with simple working parts for pushing and fantasy play, large wood trucks to ride on, small trains with magnetic or hook connections and simple wood tracks; Role-Play: detailed and culturally-relevant dress-up materials and props, housekeeping equipment, doll equipment; Play Scenes: small people or animal figures with supporting materials such as a vehicle or road sign or barn, to use with blocks or other materials to make a familiar scene.</p>
Exploration and Mastery of Skills and Language	<p>Sand and Water: people, animals and vehicles for fantasy play, small containers for pouring or measuring, large and small sand tools, and (after 48 months) sand molds and a water pump; Construction: wooden unit blocks, large hollow blocks, plastic bricks, and (from 48 months) most types of interlocking blocks, except metal or very small blocks; Puzzles:(at 36 months) fit-in or framed - puzzles up to 30 pieces; (at 48 months) 20-30 pieces; (at 60 months) up to 50 pieces; simple jigsaw puzzles - 10-25 pieces; number and letter puzzles, puzzle clocks; Skill-Development: materials for matching and sorting and ordering, geometric concept materials, number materials that are simple and concrete, measuring materials, simple mechanical devices such as gears and levers, science materials, natural materials to sort, plants and animals to care for, printmaking materials, beginning computer software; Books: picture books with simple stories and rhymes, complex pop-up books, age-appropriate stories; Pattern-Making: peg-boards with smaller pegs, color cubes, magnetic boards with forms, and (from 48 months) a variety of beads for stringing, mosaic blocks, felt boards, and (by 60 months) block printing materials; Dressing, Lacing, Stringing: cards and frames for lacing and sewing and (from 60 months) beginning weaving materials; Games: dominoes based on color or picture, simple matching and lotto games, bingo, and (from 48 months) simple card games and games requiring fine motor coordination, first board games based on chance not strategy, and (from 60 months) dominoes based on number and bingo or lotto based on letter or number matching.</p>

<p>Music, Art and Movement</p>	<p>Art and Crafts: large, nontoxic crayons and markers in many colors, adjustable easel, paint brushes of various sizes, nontoxic paint and finger paint; large paper, colored construction paper, easy-to-use round-ended scissors, chalkboard and large chalk, paste and nontoxic glue, collage materials, clay and dough and tools, and (from 48 months) workbench and hammer, and (from 60 months) smaller crayons and markers, watercolor paints and simple sewing forms with blunt needles; Musical Instruments: all rhythm instruments, blowing instruments (for one-child use only); Audio-Visual Materials: live or recorded music for singing, movement or use with rhythm instruments, adult-operated tapes or discs with songs, rhymes and stories for listening, short films and videos.</p>
<p>Gross Motor</p>	<p>Large-Movement - Push and Pull Toys : small wagons and wheelbarrows, push toys that look like adult equipment, and (from 60 months) full-size wagons and sweepers that really work; Balls and Sports: balls of all sizes, especially balls for kicking and throwing, and (from 48 months) lightweight softballs and bats, and (from 60 months) jump rope and a lightweight flying disc; Ride-On Equipment: tricycles sized to the child, three and four-wheeled pedal toys, vehicles with a steering mechanism, full-size rocking or bouncing “horse,” ride-ons that several children can use together, and (from 48 months) low-slung tricycles; Outdoor and Gym: stationary outdoor climbing equipment, appropriately sized and safe swings, and (from 48 months) slides with side rails and ladders and ropes or hanging bars and rings on a swing or climbing equipment and outdoor building materials.</p>

TABLE F: EQUIPMENT AND MATERIALS FOR THE CHILD 6 - 8 YEARS OF AGE

Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Mirrors: mirrors that adults would use, unbreakable hand mirrors; Dolls: washable rubber or vinyl baby dolls with culturally relevant features and skin tones and accessories for care giving (feeding, diapering and sleeping), small peg or other people figures for fantasy scenes; Stuffed Toys: realistic rubber, wood or vinyl animals to incorporate into scenes and models or show characteristics for learning; Puppets: puppets that represent familiar and fantasy figures for acting out stories, simple puppet theater; Transportation: generic small models of cars and vehicles, construction or workbench materials to make models of forms of transportation; Role-Play: materials for creating and practicing real-life activities and letter-creating materials; Play Scenes: small people or animal figures with supporting materials to create fantasy scenes or models related to curriculum themes.
Exploration and Mastery of Skills and Language	Construction: large number of varied materials for detailed construction and for creating models (including metal parts and nuts and bolts); Puzzles: three-dimensional puzzles, and jig-saw puzzles with 50 to 100 pieces; Skill-Development: materials for making books, math manipulatives and fraction and geometrical materials, measuring materials, science materials, natural materials to examine and classify, plants and animals to study and care for, computer programs for language arts and concept development and problem-solving activities; Books: a wide range of books at a wide variety of difficulty levels for children to read, story books for reading aloud, books made by the children; Pattern-Making: mosaic tiles, geometric puzzles, art and craft materials for creating permanent designs; Dressing, Lacing, Stringing: bead stringing, braiding, weaving, spool-knitting and sewing materials; Games: simple card and board games, games based on words, reading and spelling, memory, and numbers and counting (dominoes, Pachisi) and beginning strategy games (checkers, Chinese checkers).
Music, Art and Movement	Art and Crafts: a large variety of materials - crayons, markers, colored pencils, art chinks and pastels - in many colors, paint brushes of various sizes, a variety of paints including water colors, a variety of art papers for drawing and tracing and painting, regular scissors, paste and nontoxic glue, collage materials, clay that hardens, tools, more complex printing equipment, craft materials - simple looms, leather for sewing and braiding, papier-mâché, plaster of paris, beads for jewelry - and a workbench with tools and wood for projects; Musical Instruments: a wide range of real instruments; Audio-Visual Materials: live or recorded music for singing, movement or use with rhythm instruments, adult-operated tapes or discs with songs, rhymes and stories for listening or for the child's independent use.
Gross Motor	Balls and Sports: youth or standard-size balls and equipment for beginning team play, materials for target activities; Ride-On Equipment: (riding bicycles is no longer considered a center activity); Outdoor and Gym: complex climbing structures including ropes, ladders, hanging bars and rings.

Source: Adapted from Martha B. Bronson, *The Right Stuff for Children Birth to 8: Selecting Play Materials to Support Development* (Washington, D.C.: National Association for the Education of Young Children, 1995.)

APPENDIX 78-1 C: REPORTABLE ILLNESSES *

Reporting of the following communicable diseases* is required by State law (W.Va. Code 16-3-1 and Division of Health Rule, "Reportable Diseases, Events and Conditions", 64CSR7. This list is updated periodically by the Bureau for Public Health.

AIDS (within 30 days)
Amebiasis (*Entamoeba histolytica*)
Anthrax (*Bacillus anthracis*)
Botulism (*Clostridium botulinum*)**
Brucellosis (*Brucella abortus*, *B. melitensis*, *B. suis*, *B. canis*)**
Campylobacteriosis (*Campylobacter jejuni*, *C. coli*)
Chancroid
Chickenpox (Varicella) – Numerical totals only
Chlamydia trachomatis
Cholera (*Vibrio cholerae*)
Cryptosporidiosis (*Cryptosporidium parvum*)
Cyclospora infection
Dengue Fever
Diphtheria (*Corynebacterium diphtheriae*)**
E. coli O 157:H7 Disease
Encephalitis, arboviral
 Eastern Equine Encephalitis
 LaCrosse Encephalitis (California Group)
 St. Louis Encephalitis
 West Nile Virus
Encephalitis, Other primary and unspecified
Food borne Disease
Giardiasis (*Giardia lamblia*)
Gonococcal Disease – Drug-resistant disease, Neonatal conjunctivitis, or Pelvic Inflammatory Disease (within 24 hours)
Gonococcal Disease – All other
Haemophilus Influenzae, Invasive Disease**
Hantavirus Disease**
Hemolytic Uremic Syndrome, postdiarrheal
Hepatitis A, acute**
Hepatitis B, acute or perinatal**
Hepatitis C/Other non-A or non-B, acute**
Hepatitis Delta**
Herpes, Genital
HIV (within 30 days)
Influenza-Like Illness – Numerical totals only
Leptospirosis**
Listeriosis (*Listeria monocytogenes*)
Lyme Disease (*Borrelia burgdorferi*)**
Malaria**
Meningitis, Other Bacterial – organisms not otherwise listed**
Meningitis, Viral or Aseptic
Mumps
Outbreaks, suspect or confirmed

Pertussis (Whooping Cough) (*Bordetella pertussis*)**
Plague (*Yersinia pestis*)
Poliomyelitis **
Psittacosis (*Chlamydia psittaci*)
Rabies, human**
Rheumatic Fever
Rocky Mountain Spotted Fever**
Rubella Congenital Syndrome
Rubella (German measles)**
Rubeola (Measles)**
Salmonellosis (except Typhoid Fever – listed separately)
Shigellosis (*Shigella dysenteriae*, *S. boydii*, *S. flexneri*, *S. sonnei*)
Streptococcal Disease, Group A Invasive and/or Streptococcal Toxic Shock Syndrome (*S. pyogenes*)**
Streptococcus pneumoniae, drug-resistant invasive disease – include antibiotic susceptibility patterns**
Syphilis – primary, secondary, early latent, or congenital (within 24 hours)
Syphilis – late latent, late symptomatic, or neurosyphilis
Tetanus (*Clostridium tetani*)**
Trichinosis**
Tuberculosis – include antibiotic susceptibility patterns
Tularemia (*Francisella tularensis*)
Typhoid Fever (*Salmonella typhi*)**
Waterborne Disease
Yellow Fever

Unexplained or ill-defined illness, condition, or health occurrence of potential public health significance

* This is a general information list. The official list can be found in the reportable disease rule.

** A supplemental CDC or WV BPH report form is required in addition to the general case report

STDs, HIV/AIDS, and Tuberculosis are reported on special forms. Other diseases are submitted on the general "Confidential Reportable Disease Case Report." All report forms (general, supplemental, STD, Tuberculosis, and HIV/AIDS) can be obtained from your local health department. For questions on disease reporting or for epidemiologic consultation, call your local health department or the WV Bureau for Public Health, Division of Surveillance and Disease Control: HIV/AIDS Surveillance 1-800-423-1271; Immunization Program 1-800-642-3634; STD Program 1-800-642-8244; Tuberculosis Program 1-800-330-8126; all other diseases 1-800-423-1271 or 304-558-5358. The website address is: www.wvdhhr.org/bph/oeph/adc.

For emergency contact information after hours, call 1-304-558-4117.

October, 2000

APPENDIX 78-1 D: NUTRITION - FOOD GROUPS AND MEAL PATTERNS

FOOD GROUPS

The United States Department of Agriculture's Dietary Guidelines for Americans recommend serving foods from the four (4) basic food groups: milk, protein, fruits and vegetables, and grains. The chart below provides sample foods from each food group.

	FOOD GROUP	SAMPLE FOODS
1	Milk	milk, yogurt, cheese
2	Protein	meat, fish, poultry, eggs, peanut butter, dried beans, dried peas
3	Fruits and Vegetables	a wide variety of green, white, yellow and red vegetables and fruits
4	Grains	whole grain and enriched breads, cereals, pasta, crackers, and rice

MEAL PATTERNS

When planning meals and snacks, centers can be guided by the following meal patterns that are consistent with the United States Department of Agriculture's Dietary Guidelines for Americans and were developed for the Child and Adult Care Food Program..

A: MEAL PATTERNS FOR THE CHILD UP TO 12 MONTHS OF AGE

Age	Breakfast	Lunch or Supper	Supplement
Birth through 3 months	4-6 fl. oz. Formula ¹ or Breast milk ^{2 3}	4-6 fl. oz. Formula ¹ or Breast milk ^{2 3 6}	4-6 fl. oz. Formula ¹ or Breast milk ^{2 3}
4 through 7 months	4-8 fl. oz. Formula ¹ or Breast milk ^{2 3} 0-3 Tbsp. Infant Cereal ^{1 4}	4-8 fl. oz. Formula ¹ or Breast milk ^{2 3} 0-3 Tbsp/ Infant Cereal ^{1 4} 0-3 Tbsp. Fruit and/or Vegetable	4-8 fl. oz. Formula ¹ or Breast milk ^{2 3}
8 through 11 months	6-8 fl. oz. Formula ¹ or Breast milk ^{2 3} 2-4 Tbsp. Infant Cereal ¹ 1-4 Tbsp. Fruit and/or Vegetable	6-8 fl. oz. Formula ¹ or Breast milk ^{2 3} 2-4 Tbsp. Infant Cereal ^{1 4 4} and/or 1-4 Tbsp. Meat, fish, poultry, egg yolk, cooked dry beans or peas or ½ -2 oz. Cheese: or 1-4 oz. Cottage Cheese, cheese food or cheese spread; and 1-4 Tbsp. Fruit and/or Vegetable	2-4 fl. oz. Formula, Breast milk ^{2 3} , or fruit juice ⁵ ½ Bread ^{4,6} or 0-2 Crackers ^{4,6}

¹ Infant formula and dry infant cereal shall be iron fortified.

² It is recommended that breast milk be served in place of formula from birth through 11 months.

³ For some breast fed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered with additional breast milk offered if the infant is still hungry.

⁴ A serving of this component shall be optional.

⁵ Fruit Juice shall be full strength.

⁶ Bread and bread alternates shall be made from whole grain or enriched meal or flour.

B: MEAL PATTERNS FOR THE CHILD BETWEEN 1 YEAR AND 12 YEARS OF AGE

	Age 1 and 2	3 through 5 years	6 through 12 years
BREAKFAST			
Milk, fluid	½ cup	¾ cup	1 cup
Juice or fruit or vegetable	¼ cup	½ cup	½ cup
Bread and/or cereal, enriched or whole grain			
Bread or	½ slice	½ slice	1 slice
Cereal: Cold dry or	¼ cup ¹	⅓ cup ²	¾ cup ³
Hot cooked	¼ cup	¼ cup	½ cup
MIDMORNING OR MIDAFTERNOON SNACK (SUPPLEMENT)			
(Select 2 of these 4 components)			
Milk, fluid	½ cup	½ cup	1 cup
Meat and meat alternate or yogurt, plain or sweetened and flavored	½ oz. 2 oz. or ¼ cup	½ oz. 2 oz. or ¼ cup	1 oz. 4 oz. or ½ cup
eggs (large)	½ egg	½ egg	½ egg
Juice or fruit or vegetable	½ cup	½ cup	¾ cup
Bread and/or cereal, enriched or whole grain			
Bread or	½ slice	½ slice	1 slice
Cereal: Cold dry or	¼ cup ¹	⅓ cup ²	¾ cup ³
Hot Cooked	¼ cup	¼ cup	½ cup
LUNCH OR SUPPER			
Milk, fluid	½ cup	¾ cup	1 cup
Meat or meat alternate Meat, poultry, or fish, cooked (lean meat with bone)	1 oz.	1 ½ oz.	2 oz.
Cheese	1 oz.	1 ½ oz.	2 oz.
Eggs (large)	½ egg	¾ egg	1 egg
Cooked dry beans and peas	¼ cup	⅜ cup	½ cup
Peanut Butter, soynut, or other nut seed butter	2 Tbsp.	3 Tbsp.	4 Tbsp.
Peanuts, soynuts, or tree nuts or seeds	½ oz. (50%)	¾ oz. (50%)	1 oz. (50%)
Yogurt	4 oz.	6 oz.	8 oz.
Vegetable and/or fruit (two or more)	¼ cup	½ cup	¾ cup
Bread or alternate, enriched or whole grain	½ slice ¼ cup	½ slice ¼ cup	1 slice ½ cup

¹¼ cup (volume) or 1/3 ounce (weight), whichever is less.

²⅓ cup (volume) or 1/3 ounce (weight), whichever is less.

³¾ cup (volume) or 1 ounce (weight), whichever is less.

25/CACFP7

APPENDIX 78-1 E - DIAPER CHANGING AND TOILET TRAINING

§64-21-9. Diaper Changing and Toilet Training.

- 9.1. Children shall be diapered or have soiled underwear changed in an established diaper changing area. The changing area shall not be located in food preparation areas.
- 9.2. Staff shall change children diapers or soiled underwear on a clean, safe, impervious, nonabsorbent surface that is used for no other purpose.
- 9.3. Staff shall clean the child's perineal (urinary and anal) area with disposable wipes.
- 9.4. After removing a soiled diaper and before putting a fresh diaper on a child, staff members shall wipe their own hands with a pre-moistened towelette or a damp paper towel.
- 9.5. Both the child's and the staff member's hands shall be thoroughly washed after each diaper change. If disposable gloves are used, they must be discarded immediately and hands washed.
- 9.6. Changing tables and surfaces shall be cleaned and disinfected after each use by cleaning to remove visible soil, followed by wiping with an approved disinfectant solution, whether or not disposable, nonabsorbent paper is used. If disposable paper is used, it shall be discarded immediately after each diapering.
- 9.7. Soiled cloth diapers and/or soiled training pants shall be stored in a labeled container with a tight-fitting lid provided by a commercial diaper service or in a sealed plastic bag that is sent home with the child at the end of the day. If diapers are laundered by a commercial diaper service, the service shall be accredited by the Diaper Service Accreditation Council. Feces from soiled cloth diapers or training pants shall be disposed of by dumping in a toilet.
- 9.8. Soiled disposable diapers shall be stored in conveniently located, washable, plastic-lined, tightly covered waste containers. Each container shall be labeled and kept clean and free of buildup of soil and odor.
- 9.9. Toilet training chairs, if used, shall be of easily cleanable construction and after each use shall be emptied into a toilet, and thoroughly cleaned and sanitized in a utility sink.
- 9.10. Hand washing sinks shall not be used for rinsing soiled diapers or clothing or for cleaning toilet training equipment.

Source: Division of Health rule, "Child Care Centers," 64CSR21, §64-21-9. (1997)

APPENDIX 78-1 F: OUTDOOR SURFACES

The following chart indicates the relationship between specific depths of surface materials and the critical height of play equipment that is the height below which a life-threatening head injury would not be expected to occur after a fall from the equipment. For example, six (6) inches of uncompressed wood chips is sufficient for equipment that has a critical height of seven (7) feet, but six (6) inches of medium pea gravel or fine or coarse sand is only sufficient for equipment that has a critical height of five (5) feet.

TABLE 1 – CRITICAL HEIGHTS (in feet) OF TESTED MATERIALS				
MATERIAL	UNCOMPRESSED DEPTH			COMPRESSED DEPTH
	6 inch depth	9 inch depth	12 inch depth	9 inch depth
Wood Chips*	7-foot fall	10-foot fall	11-foot fall	10-foot fall
Double Shredded Bark Mulch	6-foot fall	10-foot fall	11-foot fall	7-foot fall
Engineered Wood Fibers**	6-foot fall	7-foot fall	>12-foot fall	6-foot fall
Fine Sand	5-foot fall	5-foot fall	9-foot fall	5-foot fall
Coarse Sand	5-foot fall	5-foot fall	6-foot fall	4-foot fall
Fine Pea Gravel	6-foot fall	7-foot fall	10-foot fall	6-foot fall
Medium Pea Gravel	5-foot fall	5-foot fall	6-foot fall	5-foot fall
Shredded Tires***	10-12-foot fall	N/A	N/A	N/A

* This product was referred to as Wood Mulch in previous versions of this handbook. The term Wood Chips more accurately describes the product.

** This product was referred to as Uniform Wood Chips in previous versions of this handbook. In the playground industry, the product is more commonly known as Engineered Wood Fibers.

*** This data is from tests conducted by independent testing laboratories on a 6 inch depth of uncompressed shredded tire samples produced by four manufacturers. The tests reported critical heights that varied from 10 feet to greater than 12 feet. It is recommended that persons seeking to install shredded tires as a protective surface request test data from the supplier showing the critical height of the material when it was tested in accordance with ASTM F1 292.

Source: Adapted from the *Consumer Product Safety Commission Handbook for Public Playground Safety* (Publication No. 325)

APPENDIX 78-1 G: STAFF/CHILD RATIO

Table A: Staff/Child Ratio for Single-Age Groups

AGE OF CHILDREN	MAXIMUM NUMBER OF CHILDREN TO BE CARED FOR BY ONE QUALIFIED STAFF MEMBER	MAXIMUM NUMBER OF CHILDREN IN A GROUP
6 weeks - 1 year (6 weeks - 12 months)	4	8
1 year - 2 years (13 months - 24 months)	4	12
2 years (25 - 35 months)	8	16
3 years (36 - 47 months)	10	20
4 years (48 - 59 months)	12	24
5 years - school-age (60 months - school-age)	12	24
school-age	16	32

Table B: Staff/Child Ratios While Children Are Participating in Water Activities - Single-Age Groups

AGE OF CHILDREN	MAXIMUM NUMBER OF CHILDREN	NUMBER OF QUALIFIED STAFF MEMBERS
12 months and under	1	1
13-24 months	2	1
25 - 59 months	4	1
60 months and over	8	1

COMMENTS AND RESPONSES FOR
TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF HUMAN SERVICES

SERIES 1
DAY CARE CENTERS LICENSING

**Discussion of Public Comments Received Concerning the Proposed Rule
DAY CARE CENTERS LICENSING 78 CSR 1**

A public comment period on the proposed rule, Day Care Licensing, 78CSR1, was held beginning June 17, 2000 and ending July 18, 2002. Twenty-nine (29) commentaries were received. Comments are summarized below, and the Department's responses and changes to the rule are detailed.

General Comments:

Comments: I wanted to send comments not only on the content of the regulations, but on the grammar, punctuation, and the clarity of the rules. I also felt some of the rules needed to be separate. I have a long list of rules for which I am suggesting alternative wording, as well as two comments on actual phase in of the training and playground requirements. Title - Center should be singular - Day Care Center Regulations. That's how it is listed by the Secretary of State.

Response: Agree appropriate title change has been made.

Comment: I received the 90 page New licencing document on July 9, 2002. I will review immediately. Thank you.

Comment: The rule is clearer and more organized. Thank you.

Comment: I found it helpful to have guidance on a variety of issues found in the new rules. 15.4.h.1 and attached appendix is very helpful. Thanks for the hard work.

Comment: First of all I do like how things are defined more specifically. This will reduce some of the individual interpretation that leads to differences. There will always be some of it but this can reduce it. There are some concerns I have as well as clarifications that are needed.

Comment: I am very pleased with the comprehensive content and professionalism shown in the proposed day care center regulations. The new regulations will help raise the quality of care provided to children in West Virginia. They are thorough, easy to read, and clarify responsibilities of center directors and staff. The only comment I would make is that the out-moded term "day care" should be replaced with the term "child care". Our emphasis now is on the individual child in center care, not on the length of time (day) that care is provided. Thank you for the outstanding proposed regulations!

Response: Thank you for the positive comments. The term day care is used throughout WV Code and is used in this rule for consistency.

Comment: Why is the Board of Education Preschools excluded from regulations?

Comment: If the Board of Education Preschool Programs are exempt from these regulations then why wouldn't Head Start Programs be also? I know that in some states they are. Head Start Programs have federal regulations ---- isn't that enough?

Response: W VA Code §49-2B exempts all school programs from Licensure. Head Start Programs, in WV, have chosen to pursue state Licensure.

Comment: ACDS/CDA should be the qualification for all directors no matter what type center. I, II, or III. (9.1.g)

Response: Although RACDS/CDA may be the ideal standard, it would be cost prohibitive for

many of the currently licensed centers to meet these qualifications.

Comment: To ensure no conflict exists with regulations in the Child and Adult Care Food Program, I compared the new licensing rule to the CACFP regulations, 7CFR 226. The only inconsistency I found was regarding the Infant Meal Pattern for children up to the 12 months of age. Under the "Supplement" column for children 4-7 months, federal regulations stipulate 4-6 ounces of formula or breast milk, not 4-8 ounces, as it is written.

I distributed the Food and Nutrition sections of the new rule to WVDE, Office of Child Nutrition staff who work with child care centers and will provide any additional comments from them to you prior to the July 18, 2002 deadline.

Response: Thank you for your astute comments.

Comment: Recently I was advised that parents can not send packed lunches to the Center. There is no mention in that in the regulations. First, if it isn't written - - it doesn't truly exist to Directors, and Second, how could that possibly be possible? Parents may send lunches to public schools - - how could reg's be so different for the same child only at a different location? And since when are parents forbidden to feed their own kids? WE go on field trips every day with school agers and they bring a packed lunch from home - - - how could this be wrong? Each lunch is refrigerated, etc. Geez !

Response: Regulation 16.9.d.states: With the exception of bottles of formula or expressed breast milk brought to a center by a parent for consumption by his or her own child, a center serves only food and beverages provided by a center or brought into a center from an approved source as defined by the health department. This is based on health and safety concerns and liability issues for centers.

Comment: Are Parks & Rec. programs licensed? If not, why? Those children do not need to be signed in/out, nutrition is not addressed, ratios are not followed, and ages of staff is as low as 14. Go figure. If they charge kids \$1.00 per DAY, aren't they claiming to be CHILD CARE from 9am-3pm. This is a real thorn in my side. How are bonifide Centers to compete with \$1. per day and NO RULES? If they ARE licensed, who is watching over their program? No one is in Berkeley, Jefferson & Morgan County that I know of. Kids are kids are kids..... how can our State, in good faith, administer strict guidelines for a 6 year old in Day Care, but that same 6 year old attending Parks & REc. programs, or Art's Programs, (etc.) be exempt from rules? Doesn't that child deserve the same protection where ever he/she goes?

Response: W. Va. Code §49-2B exempts programs operating less than 30 days from licensure requirements. The proposed rule defines and contains requirements for a "summer recreation camp" which will require a license for programs operating for more than 30 consecutive days and less than ninety consecutive days. This will address many of your concerns related to health and safety issues.

Comment: No mention anywhere in the reg's that swimming pools, trampolines, and tumbling mats are forbidden. Are they? What if there are "certified" teachers? I can't find the "rule".

Response: Although these activities are not prohibited, we have added a safety precaution for special activities at 14.13. "Special Activities. When a center participates in special activities, the center shall provide staff who are trained and supervised to enforce safety regulations, provide necessary instructions, and identify and manage environmental and other hazards related to the special activity." This safety precaution was already required for water activities

Comment: Have we forgotten the Power of Play? Does every single video and every single computer game, or every single song have to be "educational"? Have we forgotten how vitally important PLAY is? Why have we stopped encouraging PLAY?

Response: This rule encourages safe, supervised play.

Comment: Our Reg's are much stricter than even public school reg's. For example: I have to have 12 inches of play mulch on my playground, but 2 blocks away there are public schools who only have an asphalt playground. Does that make sense? Again, doesn't that same 5 year old deserve the same protections at both places? This makes me crazy nuts!!

Response: Public Schools are governed by Department of Education Requirements. This proposed rule is based on health and safety concerns related to professional child care and attempts to minimize liability issues for centers.

Comment: Mountainheart recipients are not mentioned. Shouldn't reg's include the do's and don'ts of Mountainheart since it is a State Funded program? For example: Are we required to accept ALL M'heart applicants? Or, are we only 'required' to have 25%, then after that it is our call? In order to qualify for grant monies, shouldn't Centers be advised they must have at least 25% State Funded children?

Response: This issue is related to the reimbursement requirements established by the Department of Health and Human Resources for a specific population of children and is not an issue which is addressed in the regulation of Child Care Centers.

Comment: I would like to see the WHOLE State work together regarding Day Care. For example the food program, the Mountainheart Program, the CPS Program, the Health Dept., the Fire Marshall ALL HAVE SEPARATE RULES THAT CONFLICT ONE ANOTHER. Can't our State make Day Care rules that encompass all of the agencies which affect kids? My Health Dept. Agent did not want me to have a propane gas powered restaurant-style stove on the premises.....because the propane MIGHT catch fire.....what about those kids safety when they eat at Outback? Why are my rules tougher than theirs? I'm sure I sound like I'm moaning and groaning . . . sorry . . . I've been in this business for almost 30 years and I've seen it all

Response: Every attempt has been made to resolve and eliminate conflicts in this proposed rule. The proposed rule has incorporated the requirements of the WV Department of Health, the WV Department of Education Office of Child Nutrition Program, the state Fire Marshall's Office, and the Office of Pest Management. Representatives from these and other entities participated in and contributed to the development of this proposed rule. Day Care Centers are licensed to ensure health and safety of children in out of home settings and to minimize liability in a professional child care environment.

Comment: The word "requirements" is not spelled correctly on the first web page. OOPS!

Response: This was a typographical error in transposing it to html format.

Comment: I have read the entire proposed Day Care Centers Licensing Rule and feel that the proposed rules, for the most part, are reasonable, attainable, and will improve the quality of care for all children in day care centers. I commend those who have worked on this document with the thought in mind of protecting and educating young children.

I feel that much of this proposed rule requires a mountain of written records and should be reconsidered. It is not I am against keeping necessary records, but these rules suggest that so much be written, I really don't know when staff will have time for the children. Working in a classroom, staff must give as much time as possible to the children, not writing information that will probably never be looked at again.

Response: Thank you for your positive response. Although the requirement for documentation is more than current regulations require, changes in federal regulations and National Health and Safety Standards necessitate this increase in written documentation to ensure health and safety for children and to minimize liability to day care centers.

Comment: Several commenters requested an extension of the comment period.

Response: To extend the comment period would result in the rule not being considered by the Legislature until 2004.

Comment: I am pleased to have the opportunity to comment upon the proposed Day Care Centers Licensing Rule. Last summer, many committee members spent many hours working on the "Health" section of the proposed rules, and I am extremely pleased to see that our suggestions, comments, and concerns were heard as reflected by the strengthening of the proposed rules.

I am also pleased to find that the issue of medication administration will be addressed with centers developing, implementing and maintaining policies and procedures when administering medication. However, I must question why that same 'best practice' concept of a proposed medication administration policy was not added to the family day care home registration requirements? I feel that those requirements would be strengthened by adding the identical proposed medication administration policy that was so wisely added to the proposed day care centers rules. I would be appreciative of your comments.

Comment: Day Care Center Licensing - overall these are comprehensive and reflect best practices - the Health and Safety section in particular are complete and will help improve the quality of child care.

Family Child care Regulations - in some areas these need to be more comprehensive -particularly in the area of health and safety. Medication Administration needs to be comparable to the center licensing regulations . . . Medication Administration carries the highest liability of any activity carried out in child care and to protect both providers and children strong regulations and training in medication administration is required. I recommend that standards 15.4.h from the Day care Center licensing regulations be adopted for Family Care Providers. These are basic to safe administration and family care providers need to be aware of best practices in this area.

Response: Thank you for your positive comments. This rule does not address Family Child Care regulations which are being promulgated as a separate rule. Your comments need to be addressed in that forum.

Comment: My comment concerns the difference in the Federal Performance Standards for infants and toddlers that governs all Early Head Start Programs that serve infants and toddlers birth to three years of age. Child staff ratio for Early Head Start is one care giver to four infants/toddlers and our group size for this age is not to exceed eight. The WV State Regs. ratio starts at 3 months to 2 years for one to four ratio. The ratio then changes as well as the total group size serving three year old. This is confusing when Early Head Start applies for child care license to serve infant and

toddlers age 3 months to three years. The Federal Regs. for infants/toddlers 3 months to three years are the most stringent and utilizes small group and best practices for this age group. Please take in to consideration to allow all Early Head Start Programs child care license to reflect these federal mandates on state child care license. Thank you.

Response: Although your comments are based on Federal Performance Standards, participants in the development of this rule determined that it would be cost prohibitive to the state of West Virginia and to the operators of licensed day care centers to implement more stringent staff/child ratios at this time.

Comment: There seem to be inconsistencies with different regulations on the acceptable age of staff working in day care regulations 3.55, 3.64, and 9.2.c.3 West Virginia Head Starts has proven to be able to deliver services to children in a safe, developmentally appropriate environment, with qualified staff. In other words Head Start has justified the recommendation that they be exempt from these reg. Our performance standards already mandates we go above and beyond state req. Regulations are to be enforced consistently at all licensed child care in West Virginia and at times they are not.

Response: Regulations 3.55, 3.64, and 9.2.c.3 are not inconsistent. Although Head Start Programs are exempt from licensing requirements based on their status as school programs, the Head Start Programs in WV have chosen to be licensed and conform to these requirements. Although all regulations subject to some degree of interpretation, these rules have attempted to minimize the degree to which this can occur.

Comment: Would it not be helpful to have an appendix on what Universal Health Precautions are? Those opening new centers would have that as part of the packet.

Response: Universal Health Precautions are available through a variety of sources and need not be duplicated in this document.

Comment: There are several comments I would like to make if time permitted. However I will say that I am rather disappointed with the new regs. I don't feel like they do a whole lot to raise the quality of care in areas such as staff/child ratios and curriculum. The only big difference between the new and old regs seems to be a lot of paper work for the directors and a lot more staffing qualifications in a line of work that it is already hard to find employees. I feel like these new regs are trying to enforce a lot of head start rules into private businesses that don't have head start funding to meet them. It will be very difficult to require all of these standards when we can barely afford to pay employees anything the way it is and we are pretty sure the state government won't be coming up with any additional moneys for the next 5 years.

Response: This rule was developed with the participation of day directors, medical professionals, health and fire experts, nutritionists, early child care specialist, education professionals, and national regulatory experts. WV has always been in the forefront in the provision of safe, healthy, and nurturing child care. This proposed rule serves to further that legacy.

Specific Comments

3.13.a **Comment:** If the public schools are going to be doing "daycare" this would be the perfect time to include them in the regulations.

Response: Public Schools are governed by Department of Education Requirements and are exempted from licensing requirements under WV Code §49-2B.

3.28 **Comment:** Is confusing. Do you mean: The maximum number of children permitted in a center as determined by the separately computed area of the center's indoor space, . . .

Response: We agree. The definition has been changed to: "Licensed Capacity. – The maximum number of children permitted in a center." In addition, 12.1. had been amended to "Licensed Capacity. A center shall ensure that at all times the maximum number of children participating in activities on or off the premises does not exceed the licensed capacity determined by the separately computed area of indoor space, outdoor space and bathroom facilities, not to exceed the lowest number of the three computations."

3.29 **Comment:** Under definitions. Licensed Health Care Provider .Dentists were not mentioned. They are licensed and do prescribe medications.

Response: Although a Dentist is a Licensed Health Care Provider, for the purposes of this rule, the Licensed Health Care Provider is required to provide health assessments and instructions beyond dental care. For this reason, dentists were not included in the definition of Licensed Health Care Provider.

3.31.b.3 **Comment:** A lot of times the child is asleep during the scheduled dosage time. I don't think this should be considered a medication error.

Response: Giving medication at the wrong time is a medication error.

3.32 **Comment:** Why is it for less than 12 consecutive hours? A child that stays overnight can be in care for up to 18 hours. Are you wanting to restrict a child that stays overnight to 12 hours?

Response: No, the definition for nighttime care does not prohibit the child from remaining at the center longer than 12 consecutive hours, it merely defines nighttime care.

3.39 **Comment:** Please remove the "R" in (RACDS) to be (ACDS) for accuracy and consistency with the rest of the document.

Response: Modification made as requested.

3.47 **Comment:** Too informal for a legal document - Serious occurrences are events that either harm a child or could potentially harm the child. They include:

Response: We agree. The definition has been changed to the following: Serious occurrence is an event that either harms or could potentially harm a child. It may include:

3.47.b **Comment:** This is going to happen from time to time especially when you are taking care of 120 children a day. I don't think we should have to fill out all that additional paper work for an accident that may happen. It will be added paper work for us and the licensing staff.

Response: This proposed rule is based on health and safety concerns related to professional child care and attempts to minimize liability issues for centers.

3.47.d **Comment:** This means I would have to file a serious occurrence report every time a child slept through their scheduled dosage time of a medication. This could become very time consuming

for the directors and the licensing staff.

Response: Missing a medication is a serious occurrence. This proposed rule is based on health and safety concerns related to professional child care and attempts to minimize liability issues for centers.

4.1.e Comment: If the ownership of a center is to change, the new owner shall apply for a license and may not operate until a provisional license is issued.

Response: Rule changed to: "If the ownership of a center changes, the new owner shall apply for a license and shall not operate until a provisional license is issued."

4.1.f.2 Comment: This would should better if it started with "Shall apply . . .," which means you would need to leave "shall" off rule 4.1.f and add it to 4.1.f.1.

Response: Since the word "shall" applies to both subheadings, it will remain at the beginning of the requirement.

4.2.a.11 Comment: How feasible is it to require six months of operating capital. Would three not be sufficient?

Response: This is not a change from current requirements and only requires the documentation of available funds.

4.2.a.15 Comment: My comments are in regards to the sections of the Licensing Rule related to Parent/Family Involvement and Governance. I believe that there should be more information in regards to Parent/Family Involvement as they are the first and best teachers of their children. The only noted space in the Licensing Rule that I found information relating to Parent/Family Involvement was outlined in Section 4.2.a.15. (A description of expectations for parent involvement.) Studies show that children with high rates of Parent/Family Involvement do better in school and in the community at large. Thank you for your time taken in regards to reviewing my response to the WV Day Care Licensing Rule.

Response: Although regulations do not specifically apply to parents, parental involvement is addressed in the day care center program requirements throughout the proposed rule.

4.2.a.17 Comment: Any additional information the Secretary deems reasonable in evaluating an applicant.

Response: Agree, comment added to the proposed rule.

4.1.a.1 Comment: "shall sign" What do they sign? How about "shall verify in writing"

Response: We agree. Clarification added.

4.6.a.1 Comment: This could have serious ADA complications.

Response: The Secretary must have some discretion in licensing. The condition for licensure isn't a barrier to access as it is an assurance that what the center is licensed to accomplish can be reasonably accomplished.

4.8 Comment: Should this read "an order of closure that terminates operation."? Otherwise, it sounds like all three words are the name of the order. Also, "as indicated in Section 24 of this

rule."

Response: Agree. Clarification added.

4.9 **Comment:** Grievance Procedure: I am concerned about the Type I centers being able to meet this requirement. This could be expensive depending on what the situation is. They all should be able to have a grievance procedure where issues can be brought to the attention of the operator. However, due process could bring out issues of paying someone while on suspension or back pay for someone who is brought back to work. While most type III centers already have provisions for this, Type I & II centers could have difficulty meeting this.

4.9.a.1; 4.9.a.2; and 4.9.a.3 **Comment:** No business should be told they have to have a policy that ensures parents of children can express concerns file grievances. This sounds more like a Head start requirement than something that should be issued for private businesses.

Response: According to WV Code §49-2B-1(c): "Through licensure, approval, certification and registration of child care facilities and child welfare agencies, the state exercises its benevolent police power to protect the user of a service from risks against which he or she would have little or no competence for self protection. Licensure, approval, certification and registration processes shall therefore continually balance the child's rights and need for protection with the interests, rights and responsibility of the service providers." This requirement for a grievance procedure applies to all licensed day care centers regardless of their size, their status as a private business, or their operation as a governmentally funded program. The intention of this rule is to minimize liability for the day care center provider while ensuring that the rights of parents and children are protected.

5.1 **Comment:** The term unrestricted could be inflammatory. The law requires consent to reasonable on-site inspections.

Response: The intent of this rule is to ensure unrestricted access by both investigative and licensing personnel to any licensed day care center at any time. This requirement is to assure safety and well-being of children in substitute care.

6.1.b.1 **Comment:** In the third line, add "ed " to establish.

Response: Agree. Modification has been made.

6.1.b.1 through 6.1.b.4 **Comment:** The information provided in the Licensing Rule Section 6.1.b.1-6.1.b.4 stated that "The governing body shall be comprised of at least (1) one parent of a child currently served by the center, or when no parent is available for the governing body, a parent advisory committee shall be established as described in this section. This is encouraging as it allows the parents to have ownership in the program and the rules that guide it. I believe that it will help to provide consistent services that are child and family focused also.

6.1.b **Comment:** The requirement for centers to have a governing body: Once again it could be difficult for small centers to follow the guidelines to get the participants needed to serve. Some larger centers have trouble getting parents to serve.

6.1.b; 6.1.b.a; 6.1.b.4; and 6.1.c **Comment:** Businesses should not be accountable to DHHR as to how they run their businesses. DHHR has no right to regulate the make up of governing boards of any private business. (DHHR may want to adopt the provisions of 6.1.b-c and require centers with whom they contract certificate care to meet these guidelines; but they should not be required in order to be licensed in WV.)

6.1.b.1 Comment: It is fine to recommend or require a governing board but no private business should be told they have to have a paying "customer" on that board, this to sounds like head start.

Response: DHHR does have the right to regulate the composition of the governing board. Corporations as part of their charter must establish a board of directors in order to be incorporated. Inasmuch as a day care center cares for 13 or more children, it is not unreasonable to require that a parent sit on the board.

Similarly, the rule makes it possible in 6.1.c. for an unincorporated licensee to be his or her own governing board. Out of a possible pool of 26 parents, the licensee should be able to pull together a few for an advisory board. For clarity the words "who operates a center for profit" were removed from 6.1.c.

6.1.b.3 Comment: This many meetings on top of staff meetings, training's, etc., would be a hardship for any business, especially a business that already requires most directors to work 45 plus hours a week.

Response: We do not feel that quarterly meetings for the governing body is unreasonable. This requirement provides minimum oversight and ensures that your responsibilities as the licensee are discharged.

6.2.a.4 Comment: Why?

Response: Licensed capacity is an important factor in the statement of purpose. The license was issued dependent, in part, upon this and other information required in Section 6.2 of this rule. It is imperative that all staff are informed of and familiar with this information.

6.1.b.4 Comment: Change of tense on the third line. Change to "conduct", not conducting.

Response: Agree. Correction has been made.

6.1.c Comment: Grammar On the last line, you need to change "and meets at least four times . . . to "that meets at least four times".

Response: Agree. Correction has been made.

6.3.a.6 Comment: Parents should not have the right to object to immunizations. Do they have such a right in the public school system?

Response: Yes, WV Code recognizes a parent's right to object to medical treatment and procedures. The Rule was written in conformity with federal laws regarding immunization and day care centers; the Bureau for Public Health was consulted about this subsection. Your question with respect to the public school system may be best addressed by the WV Department of Education.

6.5.a.1.B Comment: Should this end with an "and" or with a period? It appears to be the last of the rules on child records.

Response: "And" was removed and a period inserted in 6.5.a.1.C

6.5.a.1.C Comment: Requiring centers to keep admission records for three years after a

child's discharge has no purpose and would be time consuming and costly to centers. Over 1,000 children came through my center's doors last year-where would I store those records and why should I keep them?

6.5.a.1.C Comment: Three years is entirely too long to maintain all these files especially for a large center.

6.5.a.1.C Comment: Requiring centers to keep admission records for three years after a child's discharge has no purpose and would be time consuming and costly to centers. Over 1,000 children came through my center's doors last year-where would I store those records and why should I keep them?

Response: Generally, 3 years is an audit period and businesses should keep records that long in anticipation of a state or federal audit.

6.5.a.2.B Comment: This sounds like one section contradicts the other. It needs to be reworded.

Response: Agree, the following correction was made: 6.5.a.2.B. A center that operates at more than one (1) site shall keep current staff members' emergency medical information on file at each location where a staff member is employed and at a central location;

6.5.a.2.C. A center that operates at more than one (1) site may keep all staff records at a central location.

6.5.b.2 Comment: Information Disclosure: CPS and Law Enforcement should be listed in the exceptions also.

Response: Licensing rules cannot authorize the release of confidential information without appropriate safeguards. Law enforcement personnel have their own legal mechanisms to obtain information. CPS is covered in this rule as a designee of the Secretary.

7.1.a.3 Comment: I don't think I should be told to discuss it with the parents. Sometimes I see 4-5 parents a week and this would be too time consuming. I think giving it to them would be sufficient, and I always tell parents that if they have questions about any of the policies to ask.

Response: Any staff member may be given the responsibility to discuss this with parents.

7.1.a.4 Comment: It is not private individuals business who I have my liability insurance with. As long as the state knows I have it and parents know it is required that is sufficient. This would allow parents who work at insurance companies to try and solicit my business.

Response: The rule requires that a center provide information about its liability insurance coverage. It does not require that specific information about coverage be provided to parents.

7.1.a.5.A Comment: Does this mean I have to tell parents they can't "spank" their own child while dropping off or picking up? I don't feel it is any of my business while they are here to dictate how they should act, unless it would be abusive.

7.1.a.5.A Comment: Prohibiting corporal punishment. I interpret this to believe that it is by anyone even a parent during these times. I agree with that but shouldn't we specify it so we don't get questions later about what a parent can do to their own child while there.

Response: The intent of this rule is to ensure that no child is disciplined utilizing any form of corporal punishment while on the day care center premises or while participating in off-site center

activities. This would require any staff member to intervene when witnessing any parent engaging in the use of corporal punishment.

7.1.a.5.B **Comment:** Parents should have unlimited access to the centers-directors should not have authority to define "reasonable". Lots of unacceptable behavior could be covered up while directors, parents and DHHR debate the definition of "reasonable" in a given situation.

7.1.a.5.B **Comment:** Reasonable access: What about the federal requirement for unlimited access during the time of care.

Response: The rule has been changed to: The parent has access to the center when his or her child is in attendance;

7.1.a.5.C. **Comment:** I don't have time to discuss all of these policies. I go over the most important ones and then tell the parents to ask if they have any questions. The word DISCUSSED needs taken out of this.

Response: Any staff member may be given the responsibility to discuss this with parents.

7.1.a.5.C.4 **Comment:** Discharge policies.

Response: Comment added.

7.1.b **Comment:** The center shall ensure . . .

Response: Rule has been amended to include this phrase.

7.1.c **Comment:** This should be allowed based on a blanket field trip permission form and then a letter about a field trip or posting it. During the summer it would not be possible to get a permission form filled out every day for their field trips.

Response: The rule requires centers to have their own policies and procedures related to permission forms and to inform parents of their requirements.

7.4.a **Comment:** Why should a center request that the parent indicate the sex of their child on the admission form. Asking that information could lead to discrimination charges based upon the sex of a child.

Response: We disagree.

7.4.c. **Comment:** Requiring only one emergency contact is not sufficient. Having been in childcare business for 15 years, I have learned that sometimes two contacts are not adequate.

7.4.c **Comment:** Some of the parents who are new to the area don't have any one else to list. As long as I have more than one way to reach them it is fine. (Ex. Cell phones, or pagers).

Response: Center may have their own policies and procedures but are required to have one emergency contact at a minimum.

7.4.d **Comment:** Most children under 4 years of age don't have a dentist yet.

7.4.d and 7.4.e **Comment:** We do not need information regarding the child's dental provider nor their insurance carrier. Requiring such information is too intrusive into families' business.

Response: We agree with the first comment. The rule has been changed to: "The names,

addresses and telephone numbers of the child's sources of primary medical care and emergency medical care" In response to the second comment, due to limitations in certain insurance coverages, having medical insurance information may have an effect on the utilization of certain medical providers for emergency medical treatment for a particular child.

7.4.i Comment: Not all single parents have legal verification of guardianship. This is especially true in cases of single mothers. They have never had occasion to need such verification since custody was never challenged.

Response: If there has not been a legal custody dispute, a copy of a birth certificate is sufficient verification of guardianship.

7.4.1 Comment: The date of discharge is kept in the billing records. I don't see any good reason to make copies of all this info and put in the child's file that we shouldn't even have to keep.

Response: We disagree.

7.5.b Comment: This is too much information to have to take with us on every field trip during the summer. All we need is basic info.

7.5.b Comment: It is prohibitive to carry all of the information listed in 7.4 one a child for off-site purposes. Please require just what is necessary.

Response: We agree and have amended the rule as follows: "7.5. For emergency purposes, a center shall keep two (2) copies of the information in Section 7.4.a. through .7.4.j of this rule, with a parent's original signature on both copies, and shall keep:"

7.6 Comment: Is this the same meeting as in 7.1.a.2?

Response: It can be.

7.6.b Comment: Parental involvement in the center is a nice idea but should not be mandated by the State.

7.6.b Comment: Parent volunteers: Will parents be required to obtain the CIB and Health Requirements that all other volunteers are required to do?

Response: This rule requires centers to engage the parents' participation in center activities but does not mandate parental involvement. Yes, parent volunteer are required to obtain the CIB and to comply with Health Requirements that all other volunteers are required to obtain. In addition, the word "shows" in this rule was changed to the word "provides."

8.1 Comment: "and a volunteer" sounds strange at the end of the sentence. Why not change it to.... requirements of this rule including a volunteer or a parent who receives.....

Response: Agree, the rule has been amended to include this change.

8.3.a Comment: " Child Maltreatment Search Release forms"

Response: This rule requires centers to develop policies related to the Child Maltreatment Record Search Release, not the development of forms.

8.3.c.2. Comment: It is reasonable to evaluate all new staff members after 3 months and annually, however, evaluating all new staff at 6 months and evaluating staff who have started

working in a different age group is a time consuming task. I'm sure you are aware of the high turn over in staff child care centers. I can imagine myself doing 3 and 6 month evaluations and not having time to do anything else.

8.3.c.2 Comment: Formal evaluations of new hires should be at the discretion of the owner/administrator. This should not be regulated by DHHR.

Response: One of the primary goals of performance evaluations is to identify and address training needs of all employees. We think it is very important to have frequent contact with a new employee or an employee in a new job function to identify these needs. This not only assures qualified staff it may also assist in the reduction in center staff turnover.

8.4.a.1 Comment: A good reputation & character: Sounds too subjective

Response: Yes, many of the qualities in this section of the rule are subjective.

8.4.a. 5, 6, 7, 8 and 9 Comment: These do not match 8.4.a. which says that a center shall use staff members with: You need to add "The ability to" to each of these sections.

Response: Agree, this section of the rule was changed as follows: 8.4.a.5. The ability to correct hazards that might harm the health, safety and well-being of the children; 8.4.a.6. The ability to work with children without mistreatment or abuse; 8.4.a.7. The ability to encourage children and to provide them with a variety of learning and social experiences appropriate to the age of the children; 8.4.a.8. The ability to support children's physical, emotional, psychological, social and personal development; and 8.4.a.9. The ability to communicate effectively and to respect confidentiality.

8.4.b Comment: Person's under the influence. What about parents who come in intoxicated? Could the staff refuse to let the child go with this person. As of now they try to reason with the person, call an emergency contact or the police if possible but we have been told that regardless ultimately a parent cannot be stopped from taking their children.

Response: This rule cannot prevent a parent from removing their child from the center, but if a child is in danger or risk of harm, center personnel are required in this rule to report to appropriate authorities. The center is required to take all possible precautions to ensure that no intoxicated person is on the premises or has contact with children at the center.

8.4.d.2. Comment: Center staff are present at the center or with the children and the contracted person?

Response: The rule is clear as written.

8.4.f Comment: Too broad. "any reason"?

Response: Yes, the intent of this rule is to ensure the Secretary's ability to require a FBI record check "for any reason."

8.4.i Comment: "Statement of Child Maltreatment Record Search Release" is there twice.

Response: This duplication was removed from the rule.

8.5.a.1 Comment: Explanation of the difference between felonious battery and battery as a misdemeanor or statement excluding or including all battery. Statement has caused confusion in

interpretation.

Response: The explanation of the difference between felonious battery and battery needs to be addressed in a different forum not in the context of this rule.

8.5.d.3 Comment: Should this be the last sentence in this section? If so, remove the “and” and replace the semi-colon with a period.

Response: Rule amended to include correction.

8.5.f Comment: “Recent” is subject to interpretation. You need a time frame.

8.5.f. Comment: Obtaining a physical examination prior to employment is not always possible. We are in a business where employees are hard to find and money is tight. Also, it could take weeks for potential employees to obtain an appointment for a physical examination by their physician. Also, pursuant to Fair Labor Standards Act, employers must pay for physical examinations required prior to employment. Smaller centers cannot afford \$75 to \$150 per potential employee.

8.5.f. Comment: Information needed prior to employment: I have heard comments from directors that would make it difficult to hire people if they had to wait until they could get an appointment. They thought the previous 30 days was reasonable.

8.5.f Comment: This rule would be great if center directors were always given notice that employees are leaving so we would have the time to adequately interview, select an individual for a vacancy and have the new employee get their physical BEFORE working. In reality, however, many child care staff do not give adequate notice, and even when they do, 2 weeks notice is not sufficient time to advertise a job opening, receive applications, interview, select a new employee AND get a physical. A reasonable amount of time needs to be given to get a physical, at least 2 wks or 1 month. New staff are not always able to get an appointment right away with their physician. If a physical is needed before starting work, I believe we will be working with staff shortages at times. Please reconsider how this is written. What is a "recent" health assessment?

Response: This is not a change from current requirements.

8.5.f.4 Comment: You don't need a comma before “that”.

Response: The correction has been made as recommended.

8.5.g Comment: You need a comma after “employed”.

Response: The correction has been made as recommended.

8.6 Comment: Staff qualifications. Is there a time period for centers to comply with educational requirements - in particular directors?

8.6.b Comment: Instead of 2 years to comply with education and training requirements 3 years and grandfather employees who have 7 years work experience in that day care setting.

Response: Yes, there is a time period for centers to comply. The rule has been amended to include a grandfather clause: 8.6.b. A center shall require newly employed staff to meet training requirements, but may grant staff currently employed in positions at the time of the effective date of this rule up to three (3) years to comply with the education and training requirements of the position described in this rule, providing he or she remains in the same position at the same center and is in the process of acquiring the required training. Exception: Staff currently employed at the effective date of this rule, who have been employed continuously in a day care center position for

the five (5) years prior to the effective date of this rule, shall be deemed to meet the qualifications of their position.

8.6.c Comment: Can a summer camp not offer conditional employment? Or what is the exception referring to?

Response: The rule was confusing and was modified to: "A center may offer an applicant for a lead teacher or teacher position conditional employment for a period of up to six (6) months pending completion of the pre-service education and training requirements described in this section."

8.6.d.5 Comment: . . .safety, including prevention of injury both indoors or outdoors, and fire safety, including use of fire..... You need to tie "indoors and outdoors " to something.

Response: Agree, modification was made to the rule.

8.6.f Comment: refers to "certified" training with a list of kinds of training. I am not sure that there are "certified" trainings of all listed kinds available in the state. Please define First Aid training. Define other trainings

8.6.f Comment: Should this be approved training? Otherwise, you need to define certified training. Is there certified training in abuse recognition and prevention?

Response: First Aid training is self-explanatory. The rule has been modified to approved training: "A center shall ensure that staff members receive approved training in:"

8.6.f.1 Comment: Are "all" staff required to have CPR and First Aid, including support staff such as secretaries, cooks, maintenance? Training all staff will be a financial burden on centers. My current practice is to have at least half of my staff trained at any given time-it has worked well for us.

8.6.f.1 Comment: CPR should count in the 15 hours of training. Also, what are approved trainings? Hopefully not via the WV STARS, which is struggling to keep up with current trainings.

Response: All staff members are required to have CPR and First Aid training. This is a current licensing requirement. CPR training does count in the fifteen (15) hours of initial training. The definition of approved training is located in 3.4 of this rule.

8.6.f.2 Comment: Please!!! What kind of training is needed to give a child a spoonful or dropper of medicine. We have been giving children meds for 12 years without "training" and no incidents. If there is a need for administering meds which is out of the ordinary, then perhaps training could be necessary. Again, another added expense to centers to find someone to train, pay them, pay staff while in training, pay a substitute to work. I believe this rule is a bit much! It is a good rule, however, for staff to know side effects of meds. This would help them understand why a child has a rash, is cranky, etc. Parents should be required to supply this documentation as supplied by the RX.

Response: This proposed rule is based on health and safety concerns related to professional child care and attempts to minimize liability issues for centers.

8.6.g.1 and 2 Comment: Both of these sentences sound better if they start with "Completes management orientation.... and "Signs a statement that is co-signed by the director"

Response: "In order to maintain the integrity and the intent of this rule, the following

modifications have been made: 8.6.g.1. Completes the requirements for orientation training, annual professional development, and management orientation training that includes a detailed review of the center's administrative manual and management practices; and 8.6.g.2. Co-signs with the director a statement which is kept in the staff member's file acknowledging receiving management training."

8.6.h.2 Comment: Does the state have the capacity for centers to be able to comply with this?

Response: Yes, the state provides grant monies to the various Resource and Referral Agencies to offer an infant/toddler training component.

8.6.h. 1,2, 3 and 4 Comment: None of these rules sound right when you look at the statement on 8.6.h. The wording does not match.

Response: We disagree.

8.6.i Comment: Why do we need "and only a summer recreation camp"?

Response: It clarifies the intent of the rule.

8.6.i.2 Comment: I am not sure what is meant by "in addition to other programs" here. Can this be clarified?

Response: Yes, this rule pertains to a year-round licensed day care center which also has a summer recreation camp as a component of its total year-round program.

9.1.b Comment: Staff meetings do not need to be held once per month at all centers (especially with small staffs). Additionally, DHHR does not have the right to mandate staff meetings. Those should be left up to the administration.

Response: This proposed rule is based on health and safety concerns related to professional child care and attempts to minimize liability issues for centers. In addition, this is not a change from current requirements.

9.1.g Comment: Why are day care directors able to have different levels of qualifications depending on the number in their center? Aren't the children in a Type I centers due the same high level of care and leadership as those in a Type III center? Additionally, doesn't it take the same skills and knowledge to lead a center with 30 children as it does a center with 60 or more? I believe this rule discriminates against large centers and allows smaller centers to be operated with folks with lesser training. All directors should have one level of training. This rule would be less confusing if one criteria was set for directors.

9.1.g.2.A through 9.1.g.4.C Comment: Small centers need qualified staff as much as larger centers. There should not be a different set of qualifications. My center was once very small. I am a good administrator and businesswoman. Now, I have three large centers. My qualifications have not changed. I needed as much when I had one center as I do now. Basically, I have concerns about the entire section regarding staff qualifications. Time does not allow me to cover this section as thoroughly as I would like. My concern is that requiring staff to meet such stringent requirements will drastically decrease the already very small pool of applicants from which we currently have to hire. This is particularly true in more rural areas of our state.

Response: This rule attempts to assure the highest quality of care in every day care center. The different levels of qualifications are based on the complexity of the operation of the center not on

the quality of care provided to the children. We have altered the qualifications to some degree. See following response.

9.1.g.2.A **Comment:** Define equivalent credential or it will be impossible to enforce. Do you have to have 300 hours with the 12 hours of college credit or with the CDA or with both?

Response: We agree and have deleted the equivalent credential requirement and clarified the intent of the rule as follows: "9.1.g.2.A. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children". The rule has also been modified to clarify the credentialing requirements and the substitute years of work experience have been proportionately reduced in the following sections: ;"9.1.g.2.B. A total of two (2) years of relevant work experience."; "9.1.g.3.C. Three (3) years of relevant work experience."; and "9.1.g.4.C. A degree in a related field and a total of one (1) year of relevant work experience." In addition corresponding changes were made as follows: 9.2.c.3.A. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children; 9.2.c.3.B. A total of two (2) years of relevant work experience; 9.3.d.2. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children; 9.3.d.3. A total of two (2) years of relevant work experience.

9.1.g.2 and 3 **Comment:** Add " a minimum of the following:

Response: The words "the minimum" were changed to "a minimum" in 9.1.g.2, 3, and 4.

9.1.g.3.A **Comment:** Add an or at the end after the ; for consistency, clarity, and accuracy.

9.1.g.3.A and B **Comment:** This sounds like you have to have both the ACDS and 28 hours of college credit. Is it both or is it one or the other?

Response: Only one is required, the word "or" has been added after 9.1.g.3.A.

9.1.g.3.B and 9.1.g.3.C or 9.1.g.3.B or 9.1.g.3.C **Comment:** I thought there would be a phase in requirement of up to two years. Why is this not included?

Response: Modifications to the rule to permit grand fathering accommodations for staff members have been added to section 8.6.b.

9.1.h **Comment:** Awkward sentence- Designate a person in charge to fulfil the duties of the director whenever the director is not present at the center.

9.1.h **Comment:** I do not believe a person-in-charge in the absence of the directors necessarily needs to be qualified as a teacher. Qualifications should include more of managerial skills. Can a director trust this individual? Are they level headed to make management decisions and other operational decisions that need to be made in a director's absence? Will this person carry on as the director would wish? A director needs to choose a person in charge that may have entirely different qualifications and skills than a teacher. As a matter of fact, I have a CDA teacher who does wonderfully with children, but I would not leave her in charge of the center for anything. A director needs to be able have some discretion in this area, not just based on who has what training.

Response: The rule has been modified as follows: “Designate a person-in-charge to perform the duties of the director during all hours of operation when the director is not present at the center. The person-in-charge shall be a qualified staff member.”

9.2.c.3 Comment: (18/21 year age discrepancy in qualifications)

Response: No discrepancy exists.

9.2.c.3.A Comment: Add an or at the end after the ; for consistency, clarity, and accuracy.

Response: Modifications have been made to this rule.

9.2; 9.3; 9.4; 9.5; 9.6; 9.7; and 9.8 Comment: This section is set up like a large corporation. This all sounds good on paper, but so confusing. Assistant teacher-teaching assistant--Can this be simplified? How long does a center have to comply with these training rules? My problem is that I get employees trained, then they find a better paying job, I train another person and they find a better paying job, etc., etc., etc. How can we pay what these people deserve when we cant afford to raise child care rates in WV because families cant afford it? Have you thought about this? This is a real concern for all of us at centers and trying to meet new rules.

Response: This rule defines certain job classifications and qualifications. These include the Director, Assistant Director, the Lead Teacher, the Teacher, the Assistant Teacher, the Teaching Assistant, a Teen Aide, and a Volunteer. We have liberalized training requirements in most of these classifications and the time frames in which the training must be accomplished .to accommodate centers who may have staffing problems.

9.3.d.1 Comment: Add an or at the end after the ; for consistency, clarity, and accuracy.

9.3.d.1 Comment: Add “or”

9.3.d.1 Comment: The requirement for staff to have a WV Training Certificate in Early Care & Education. Does this mean they need to have a certificate on the Career Pathways or be approved trainers? All child care employees are eligible for the Career Pathways but to be an approved trainer the person must have experience, education and previous training experience. It will be difficult to hire people with this much experience especially the small centers.

Response: Modification to the rule has been made to add the word “or”. The rule does not require that center employees be trainers in any curriculum.

9.4.d.3 Comment: What is an equivalent?

Response: An equivalent means possessing the same nearly the same characteristics.

9.7 Comment: Should you define student intern??

Response: The requirements for a student intern at 9.7 define it.

9.8 Comment: A substitute may have been employed as a substitute for a long period of time(some university students do this so that they work only when they are not committed to 40 hours a week. They may have only one day free a semester but they have worked at a center for four years.) This ruling would only let them take care of children if someone else is with them. If that was the case we wouldn't be hiring a substitute.

Response: Since a substitute is not required to maintain credentialing nor participate in training

the requirements for supervision by qualified staff is to ensure the health and safety of children and to minimize a center liability.

10.1. b Comment: “performing their duties during work hours”. The other sounds repetitive.
Response: Modification has been made to the rule.

10.2 Comment: The intent here is for centers to create small groups that support children's positive development. The language is vague and unclear about what is expected on having the groups separated. Lots of room for confusion and interpretation.

Response: Disagree. This section clearly directs the grouping of children in the day care center. The intent of the rule is not to provide commentary nor philosophy concerning child grouping. The rule has been modified for grammatical purposes to: “10.2. Children will be assigned to distinct groups”.

10.2.b Comment: Would it sound better to put an age rather than use the words “up to school-age”

Response: No, school age child is defined in the rule.

10.3 Comment: Requiring two staff members to be on duty at all times will force centers to limit their hours of operation, thus causing hardship on parents who work early or late hours.

Response: The intent of this rule is to ensure the health and safety of children and to minimize a center liability.

10.3.b Comment: Isn't “while children are on the premises” assumed and therefore unnecessary?

Response: No.

10.4.b.3.A. Comment: One qualified staff member supervises 8 children: Does this include infants/toddlers during these hours?

Response: No, in addition to meeting appropriate child/staff ratios, a qualified staff member is required for every eight children.

10.4.c.2.C.2 Comment: Driver may be included in the staff/child ratio on level I field trips. I feel that a safety rider is necessary for all field trips. A level I field trip can be up to 30 minutes. There are a lot of things that could happen and it is difficult if not impossible for a driver to concentrate on driving and supervise the children adequately. Also, no child should be allowed to sit in the front seat due to the danger of air bags.

Response: We agree. The rule has been modified to be consistent and to include these safety concerns: “10.4.c.2.C. At all times when transporting a child, a center shall ensure that no child is unattended in a vehicle, and a center shall maintain the staff/child ratio described in Table A of Appendix 78-1 G of this rule and not include the driver in the staff/child ratio.” Sections 10.4.c.2.C.1, 2, and 3 have been deleted. In addition references to Level I and Level II field trips and Level I and Level II transportation in the definitions have been deleted. Finally, WV Code §17C-15-46 requires children under the age of three years to be placed "in a child passenger safety device system" meeting federal safety standards. This section of the code along with §17C-15-49, requires passengers under the age of eighteen years to be restrained by a safety belt.

10.4.c.2.C.3. **Comment:** This rule will cause a hardship on the center. Why can't the driver be considered as part of the child/adult ratio? Most centers do not have the luxury of having an additional staff member to drive and not be included in the ratio.

Response: This rule has been modified to ensure child health and safety and to minimize liability.

11 **Comment:** This section is philosophy and should not be a regulation.

Response: We strongly disagree.

11.1.a **Comment:** Grammar management ~~and~~ that include

Response: Modification has been made to the rule.

11.2.j **Comment:** Typo - "bo" should be "to"

11.2.j **Comment:** Fourth word from end "bo" should it be "to"

Response: Modification has been made to the rule.

11.3.d **Comment:** "for the child under school-age" would sound better as "for children under the age of five years."

Response: School aged child is specifically defined in this rule.

11.4.c **Comment:** Restraining a child only with a firm grasp... I'm concern with this statement. If someone is not properly trained in even this type of restraint there is a possibility they could hurt the child or themselves if done improperly. This does not mean they can't use reasonable means to protect the child in an emergency but it should not be put in regular practice.

Response: This is a qualifying statement to allow some sort of physical control over the child only for the period of time necessary and is included to ensure the child's safety on the rare occasion when a child is unable to control his own behavior. We do not consider this type of protective intervention to be "regular practice."

11.4.g **Comment:** Tense change- or "placing" the child in a dark area

Response: Modification has been made to the rule.

11.5.a; 11.5.b; and 11.5.c **Comment:** In some cases, I feel that center staff, even directors are not qualified to make behavior management plans. Social workers, counselors, and case managers provide these kinds of services. Providing written plans and written progress reports sounds great, but with all the other proposed rules that require written reports, written evaluations, etc., where does one find the time to implement all these requirements. A director would need a full-time assistant, which of course, we cant afford. Teachers and aides do not have the time to record steps taken during implementation--they are busy watching children!

Response: Centers are required to deal with behavior problems and to assure the health, safety, and well-being of children must be prepared to have a planned response in the event it becomes an issue. This would also allow centers to document their efforts to deal with problem behaviors which they have been unable to manage.

11.7 **Comment:** “ In order to inform staff about behavior management procedures and child abuse and neglect reporting, the center shall”

11.7.a **Comment:** ”Provide each staff member with a copy..... and the reporting of child abuse and neglect and provide revised policies when changes occur.”

11.8 **Comment:** In order to inform parents of the center’s behavior management practices and child abuse and neglect reporting, the center shall....

11.8.a **Comment:** “ and update parents on policy changes when they occur.”

Response: The rule has been modified to improve the grammar and sentence structure as follows: “11.7. The center shall inform staff about behavior management procedures and child abuse and neglect reporting by: 11.7.a. Providing each staff member a copy of its policies on behavior management and the reporting of child abuse and neglect, and providing revised policies when changes occur; 11.7.b. Obtaining a signed and dated acknowledgment that the staff member has read and understands the policies or revised policies; and 11.7.c. Placing the signed acknowledgment statement in the staff member’s file. 11.8. At the time of admission a center shall inform parents about the center’s behavior management procedures and child abuse and neglect reporting requirements by: 11.8.a. Providing to each child’s parent written copies and an oral explanation of a center’s policies on behavior management and the reporting of child abuse and neglect, and updating parents on policy changes when they occur; 11.8.b. Obtaining a signed and dated acknowledgment that the center has explained the policies and provided the parent with a copy. The statement bears the child’s name, the date of enrollment, and, if different, the date the parent signs the statement; and 11.8.c. Placing the signed statement in the child’s file for as long as the child is enrolled. “

12.2.b.4 **Comment:** (clean surface for diaper changing. We have purchased changing tables for 3-5 age preschoolers at great expense. There are portable changing tables that fit the new regulations-I believe that portable changing tables for children 3 years and over is appropriate.

Response: We agree.

12.2.d **Comment:** Indoor space for summer recreation camp programs. I’m concerned about the 10 square feet / child allowance. Even though the children will be outside most of the time there could be periods of bad weather in which they are in longer and this could get confining.

12.2.d **Comment:** Is 10 square feet enough?

Response: Generally, summer recreation camp programs are exempt from licensing regulations unless they operate for more than 30 consecutive days. Although we agree that 10 square feet could be confining for those periods in which the weather is bad, most of these programs have a variety of alternative activity plans available.

12.4.b **Comment:** Allowance for commercial portable toilets for summer programs. I am very concerned about the sanitary conditions of this. Will there be any guidelines or enforcement from the Health Department on keeping them sanitary? The ones I have seen at public events (which are only a few days) are very unsanitary. One being used all summer concerns me.

Response: The center is required to have the written approval from the local health department.

13.2.a **Comment:** Does this mean the tables may not be “multipurpose”? Why?

Response: No, the rule has been clarified as follows:”13.2.a. Children’s chairs and tables that

are multipurpose and not stationary;”

13.3.c Comment: Jumpers & walkers prohibited (VERY GOOD!!!!) Hope we can keep this one.

13.3.c Comment: Jumpers and infant walkers are prohibited.”- This should be a separate rule- the first sentence dealt with feeding equipment and the last does not.

Response: We agree, and was this sentence was added to 13.3.b

13.4 Comment: “For children who nap, equipment shall include

Response: The rule is fine as written.

13.4.a.1 Comment: Allowance of playpens for sleeping. I’m concerned about how much support these give to the children’s back during sleep. The 1" thickness mentioned in 13.4.e.7 is not much.

Response: The mats in playpens are very sturdy and provide adequate and appropriate support and are only to be used for nap-time. The 1" thickness mentioned in 13.4.e.7 is only to be used in the sturdy playpens.

13.4.a.3 Comment: (mats should be allowed for rest time for 3-5 age preschoolers. We have been following the current cot only at a great expense to the program.)

Response: The new rule permits mats for children over 25 months of age.

13.4.h Comment: List of shall notes in sleeping accommodations (VERY GOOD!!!!) Hope we can keep this one.

Response: Thank you.

13.4.e through 13.4.j Comment: Reduce or eliminate the use of “that” at the beginning of each sentence. This is a pretty big section to have each number refer back to “ a center’s sleeping equipment.” You lose track of the subject.

Response: The rule has been modified and the use of the word “that” has been eliminated.

13.5.h.1 Comment: Shelves is a part of the group of furniture that must be anchored. If low shelves are anchored that means that the room cannot be rearranged to provide new centers and interest areas. If they could have locking caster wheels so that they wouldn't move it might be more helpful.

Response: Locking casters may be a viable alternative depending on the height of the mobile object., but this would need a waiver from the Secretary. The intent of this rule is to ensure the health and safety of children and to minimize a center liability.

13.5.h.2 Comment: I question the use of a 4 inch mat with tall indoor equipment. Would that not make the structure unsteady. We have also been looking for mats to put under equipment and have not found any to be that thick.

Response: The 4 inch mats should not interfere with the ability of a center to securely affix the climbing equipment in place. This rule requires the use of landing mats under and around a piece of equipment. The Licensing Unit is able to provide technical assistance to assist you in locating

appropriate resources.

13.5.h.2 **Comment:** Use zones are extended "THEM" Should this be there?

Response: The rule has been modified and the use of the word "them" has been eliminated.

13.5.h.3 **Comment:** (Size of small toys not be smaller than diameter of 1 and 1/4- However, in 78-1B and 78-1C children younger between 7-24 months can play with wrist/ankle bells or bells on a handle- this is a dangerous toy at that age due to possibility of child swallowing bell)

Response: The rule clearly states no small object, toy or toy part that has a diameter less than one (1) and one quarter (1/4) inch may be accessible to children less than four (4) years of age.

13.5.h and 13.6 **Comment:** Maximize safety..... (VERY GOOD!!!!) Hope we can keep these.

Response: Thank you

14.3.a.3 **Comment:** I am very pleased with the new child care regs, especially the staff/child ratios. I agree that 2 staff members should be on duty at all times. Supervision of the individual child is very well-defined, detailed, and appropriate. Sleeping routines. I think that a 6 hr. center should require rest and nap time for one hour but a 4 hour center should not require nap time.

Response: Thank you for your astute comments, but a center operating for four or less hours does not require a license..

14.4 **Comment:** Put a comma after "months of age, a center..."

Response: The grammatical correction has been made to the rule.

14.4.a **Comment:** A written, individualized schedule? Meet with parents and discuss the child's needs, but a written, individualized scheduled? In reality, children in group care gradually conform to the center schedule. Children eat at specific times, have outdoor play together, sleep at the same time. If children slept at different times and ate at different times, there would be total chaos. With all due respect, if a child needs a written, individualized plan, he/she should be in private care. If a child with special needs is accepted into care, then perhaps a plan and instructions needs to be written. This proposed rule is overkill.

Response: The word "individualized" has been deleted from the rule.

14.4.c.2 **Comment:** References a daily report for children under 12 months then 14.4.c.3 requires a report for parents for children under 12 months to be done until children are 14 months? This is a bit confusing.

Response: Agree, 14.4.c.3 has been deleted from the rule.

14.5 **Comment:** Staff members shall interact personally with "infants and toddlers" by???

14.5 **Comment:** Are these staffing requirements for all age children or for children under 24 months?

Response: Based on these recommendations, the rule has been amended as follows: "Staff members shall interact personally with the infant, toddler, and the younger child by:"

14.6 **Comment:** Place a comma between “children, a center”

Response: The grammatical correction has been made to the rule.

14.7 **Comment:** A center operating a summer recreation camp shall...

Response: The grammatical correction has been made to the rule.

14.7.d.4 **Comment:** Ask the parent to provide ~~the child~~ for the child’s personal use

14.7.d.4 **Comment:** Flame retardant sleeping garments: Somewhere I heard during a fire these have melted on children and they received burns from this. I’m not sure if that is true for fabrics used today.

Response: The grammatical correction has been made to the rule. Thank you for your comment.

14.7.d.5 **Comment:** This sentence needs to be revised.

Response: The rule has been revised as follows: “14.7.d.5. Ensure that staff members supervise a child’s bath or individual shower, respecting the child’s privacy according to the child’s developmental needs.”

14.9.a **Comment:** Passive media not routinely part of schedule (VERY GOOD!!!!) Hope we can keep this one.

Response: Thank you for your comment.

14.10.a.5 **Comment:** Are helmets a requirement when a child rides a tricycle or scooter at a day care center. This needs to be clarified.

Response: Yes, this would be covered under the definition and requirements of special activities for this age group.

14.11.f.1 **Comment:** The beginning of the sentence does not match 14.11.f. “Evaluating the child” should come first.

Response: The grammatical correction has been made to the rule.

15.1.a **Comment:** The Health needs- I recommend all children be required to have up to date immunization before entering a day care.

Response: The Rule was written in conformity with federal laws regarding immunization and day care centers

15.1.b **Comment:** Religious exemption from immunizations. Will there be any guidelines on this or is it opening it up to anyone who doesn’t want to be inconvenienced to immunize their child?

Response: The rule requires written documentation.

15.2.a **Comment:** This sentence is contradictory. It is either “prior to” or “not later than 30 days after” the admission, but not both. You should rephrase it to say, “ No later than 30 days after admitting a child, a center shall have on file the child’s health records. . .” Or use “prior to” as a preference, but it should not be both.

15.2.a **Comment:** The proposed rule states: Prior to admitting a child....then says a center shall

have on file no later than thirty days after the admission. . . Which is correct--prior to admission OR no later than thirty days? It would seem that parents need 30 days to get this info. If required before admission, parents would not be able to have care for their children as needed.

Response: The rule has been clarified as follows: "A center shall have on file no later than thirty (30) days after the admission, the child's health records, including a record of a health assessment signed by the child's licensed health care provider, that includes the following medical and developmental information, and any special required instructions for the center"

15.2.a.2 **Comment:** This sentence is awkward. Could it be rephrased to "including abnormal results of screening tests, including tests for vision and hearing, tuberculosis or lead poisoning.

Response: The rule has been clarified as follows: "15.2.a.2. A description of any allergy, current health problem or condition that may affect the child's adaptation to care, including abnormal results of screening tests, for vision, hearing, tuberculosis, or lead poisoning."

15.2.a.3 **Comment:** Again, awkward- Substitute " Prescribed daily medications and any potential side effects

Response: The grammatical correction has been made to the rule.

15.2.c **Comment:** Medical statement for children under 3 months (VERY GOOD!!!!) This is what we routinely require for waiver requests so this puts it in policy to be done automatically.

Response: Thank you for your comment.

15.3.b **Comment:** Objection of medical treatment on basis of religion. Does this include behavior plans?

Response: The rule requires that parents participate in the development of these plans..

15.4.a **Comment:** Grammar- observe a child daily, watch for any changes.... and record.

Response: The rule is fine as written.

15.4.b **Comment:** Punctuation- when a child is ill, staff members

Response: The grammatical correction has been made to the rule.

15.4.b.2 **Comment:** . . .and record it on file. Which file? The child's record?

15.4.b.2. **Comment:** Is this rule saying that the staff are to have a file on each child a record any time the child appears to be ill, etc., or does this mean in the file kept in the office? Why does this information need to be recorded in a file? Teachers do not have time to do all of this recording. They need to be supervising children.

Response: The rule has been modified as follows: "15.4.b.2. Take the child's temperature and record it in the child's file" This proposed rule is based on health and safety concerns related to professional child care and attempts to minimize liability issues for centers.

15.4.c **Comment:** Is "for any child" necessary? It sounds repetitive.

Response: We disagree.

15.4.d **Comment:** Shall inform the parent that the child is ill? running a fever? You need to say what to inform the parent about.

15.4.d **Comment:** There is a : after fever, is something missing? This is unclear and I am not sure how it will be enforced. Fever means different things - is this fever with behavior change or ???

Response: The rule has been modified as follows: "15.4.d. A center shall inform the parent when a child has a fever and suggest that the parent consult a licensed health care provider." Question concerning fevers should be referred to your licensed health care provider.

15.4.e. **Comment:** This section on exclusion is a bit confusing. Unclear on readmission. The new Caring for our Children has some useful language on observable symptoms and return in 3.065.

Response: We disagree, the rule stipulates that the child may be readmitted when they are provided a statement from their licensed health care provider that the child poses no health risk to the children at the center.

15.4.e.1 **Comment:** How does the center know the child has a communicable illness? Should you use the staff either suspect or are aware that a child has a communicable illness?

Response: The rule specifies the symptoms and indications of a communicable disease. If there is a question, you may contact your Public Health Department or your licensed health care provider.

15.4.e.4.D **Comment:** Awkward. Should "is characterized" be "or characterized" or "that is characterized"?

Response: The grammatical correction has been made to the rule.

15.4.f **Comment:** References some readmission but there is confusing language when thinking about the practical application. I wish the whole section could be clearer.

15.4.f **Comment:** This would sound better as a full sentence, such as "When excluding a child to prevent transmission of illness and readmitting a child, the center shall abide by the following guidelines:

Response: The rule has been modified as follows "15.4.f. When excluding a child to prevent transmission of illness or readmitting a child who has been excluded, the center shall abide by the following guidelines."

15.4.f.1 **Comment:** Can you use another word besides center here? It is repeated too close together. Can you use "at a center, staff shall exclude"? Or something similar?

Response: At a center has been deleted in the rule.

15.4.f.2 **Comment:** This statement is very confusing. How can a licensed health care professional determine if the risk of the disease has passed when some children who have been immunized against chicken pox end up with a light case of them. If children are not immunized due to religious reasons are we going to make them pay for time they are not allowed to bring their child to day care? Is the dept. going to pay for the subsidized children who for religious reasons are not vaccinated?

Response: This rule does not address with payment issues.

15.4.g **Comment:** Should "reportable diseases" be included as a definition?

Response: It is included in appendix. 78-1 C

15.4.h **Comment:** . . .that include the following procedures when” . Change to “following procedures regarding administration of medication”

15.4.h **Comment:** Medication Administration: Sections 1 and 2 appear to contradict each other.

Response: The rule was amended as follows: “15.4.h. Medication Administration. With advice from a licensed health provider, a center shall develop, implement and maintain health policies and procedures that include the following procedures for the administration of medication.” We do not agree that there is a contradiction.

15.4.h.4 **Comment:** Teachers do not need special training to dispense meds, with the exception of special meds for unusual illnesses or special needs children. This rule is ridiculous!

Response: This proposed rule is based on health and safety concerns related to professional child care and attempts to minimize liability issues for centers.

15.4.h.8.B **Comment:** Would child’s “response” be better described as “child’s reaction”. Response sound more like a verbal response.

Response: Yes, the suggested change has been made to the rule.

15.4.h.9.E **Comment:** This sentence is so far removed from the original entry that it would sound better to add “... the staff member draws a line. . .

Response: The rule has been amended as follows “15.4.h.9.E. Draws a line through an incorrect recording entry, initials the error and writes the correct information”

15.4.h.10 **Comment:** Center may permit a child to carry & self-administer medication. I am VERY concerned about children being allowed to carry their own medication. I can see under some circumstances children could administer their own medication with the appropriate statements and under supervision from the staff. However, they should not be allowed to carry any medication on them that could get in the possession of other children.

Response: We agree, the words “to carry” have been deleted from the rule.

16.2 b **Comment:** . . .while protecting the child’s confidentiality”

Response: The rule has been amended incorporating the recommended change.

16.4.e **Comment:** Exception of hot meal due to a special event or unusual circumstance. Will this be defined? I can see some directors using this to get out of providing a hot meal.

Response: No, it is obvious.

16.7. d **Comment:** Grammar.... staff members are seated when eating, and ~~THAT~~ staff members... remove that.

Response: The word “that” has been removed from the rule

16.9 a **Comment:** Food preparation **areas**- Please add areas if this is what you mean? Or, you could say, Food preparation, service and storage areas”

Response: The addition of the word “area” has been added to the rule.

16.9.d **Comment:** What about baby foods??

16.9.d **Comment:** Requirement for a center to serve only food & beverages provided by the center or an approved source defined by the health department with the exception of bottles or breast milk. I interpret this to mean they will not be able to allow parents to pack lunches. I do like this and hope we can keep it.

16.9.d **Comment:** Regarding food. Is infant food allowable to be brought by parents? Later in 16.10.d.6 baby food is discussed and coming from home is referenced somewhat, not sure how that relates to this section.

Response: The rule has been amended as follows: "16.9.d. With the exception of bottles of formula, expressed breast milk, or previously unopened containers of baby food brought to a center by a parent for consumption by his or her own child, a center serves only food and beverages provided by a center or brought into a center from an approved source as defined by the health department."

16.10 **Comment:** This seems to include the title of the section and a rule. Should they not be separate?

Response: Agree, the numbering in this section has been change to reflect the separation of the title of the section from the first rule.

16.10.d **Comment:** What do you mean by "definite" place for the child to sit while eating? This is too long. Could you divide into two rules?

Response: The rule has been amended as follows: "16.10.d. Until a child is able to hold a bottle securely, a staff member shall hold the child while bottle feeding. When a child is no longer being held for feeding, the staff shall ensure that seating is age-appropriate and shall not prop bottles or allow the child to carry a bottle while moving about or walking."

16.10.e.5 **Comment:** before to filling them. Omit "to".

Response: The word "to" has been removed from the rule.

16.10.e.6 **Comment:** Handle baby food "in the following manner"

Response: The rule has been amended as follows: "16.10.e.6. Handle baby food in the following manner"

16.10.e.7 **Comment:** Handle breast milk and formula in the following manner. A center shall:

Response: The rule has been amended as follows: "16.10.e.7. A center shall handle breast milk and formula in the following manner:"

16.10.e.7 A, B, C, and D **Comment:** Take "shall" our sent it was added above.

Response: The word "shall" has been removed from these four sections.

16.10. f **Comment:** "For safe drinking water practice" is awkward. Could you say " In order to provide sufficient amounts of safe drinking water, the center shall ensure that:

Response: The rule has been amended as follows: "16.10.f. In order to provide sufficient amounts of safe drinking water, the center shall ensure that"

16.10.f.2 **Comment:** ...after one use, and-that a.... (You already have a "that" in your first sentence)

Response: The word "that" has been removed from the rule.

17.1.a.2 **Comment:** Take out "when" on the lead sentence. When you read it with some of the following sections, it does not read correctly. Then add the "When" on number 17.1.a.2.A.

Response: The suggested modification has been made to the rule as follows: "17.1.a.2. Staff members and children shall wash their hands with soap and warm, running water for at least twenty (20) seconds;" and "17.1.a.2.A. When hands are contaminated with body fluids;"

17.1.b **Comment:** "With the exception of breast milk" might be more readable. Also, would it still be what you want to say if you changed the second, "staff members" to "they"?

Response: The rule has been modified as follows: "17.1.b. Universal Precautions. With the exception of breast milk, staff members shall adopt universal precautions when exposed to blood and body fluids that might contain blood."

17.1.c **Comment:** Alternate wording suggestion: Center staff shall follow the guidelines for diapering and toilet training outlined in Appendix....

Response: The rule has been modified as follows: "17.1.c. Diapering and Toileting. A center shall ensure that diapering and toilet training follow the guidelines in Appendix 78-1-E."

17.1.c.2.B **Comment:** Too wordy. Would this say it? A center shall either provide toilet fixtures that are sized so that the child can use them without assistance or provide step stools or modified toilet seats that are safe and easily disinfected, if appropriately sized fixtures are not available.

Response: The rule has been modified as follows: "17.1.c.2.B. A center shall provide toilet fixtures that are sized so that the child can use them without assistance, provide step stools, or modified toilet seats that are safe and easily disinfected."

17.2.b **Comment:** This is really two rules. If you did a checklist, this would be checked separately.

Response: We agree, the rule has been amended as follows: "17.2.b. The center shall ensure that floors, walls and ceilings are of easily cleanable material." and "17.2.c. The center shall ensure that the floor area immediately adjacent to the diaper changing table has a moisture-resistant, non-absorbent surface extending three (3) feet from the base of the table on all sides, except when one side of the table is against a wall."

18.1 **Comment:** Too wordy. How about? A center shall ensure that animals on the premises show no signs of disease or illness and shall maintain documentation of current vaccinations on dogs and cats. Although, I really think it is two rules again.

Response: We agree, the rule has been amended as follows: "18.1. a center shall ensure that animals on the premises shows no signs of disease or illness" and "18.2. The center shall maintain documentation of current vaccinations on all dogs and cats."

18.3 **Comment:** Too many commas- Maybe this should be changed to: A center shall not have any of the following pets on the premises:

18.3.a Ferrets;

18.3.b Birds, including birds of the parrot family;

18.4.c. Reptiles, including snakes, lizards and turtles; and

18.4.d. Any wild or dangerous animals.

Response: The rule has been amended as follows: "18.3. A center shall not have on the premises ferrets, birds, reptiles, including snakes, lizards and turtles, or any wild or dangerous animals."

19.1 **Comment:** This sentence sounds better if you don't interrupt the flow and just say.... to ensure that **at all times** it always has

Response: The words "at all times" have been deleted from the rule.

19.2.a **Comment:** Is it not necessary for a parent/guardian to sign a child in and out? When the rule says designated adult to sign each child in and out, does that mean a staff member and not the parent?

Response: The intent of this rule is to predesignate this responsibility. Therefore, if the staff member or other party specified by the parent has been designated to sign the child in/out they may do so in lieu of the parent.

19.2.b **Comment:** Should this read: A center shall require. . . the date and exact TIME (including hour and minute)?

19.2.b **Comment:** This is a run-on sentence which takes several readings to make sense. While it saves space, the content suffers. Make it into separate pieces in order to bring attention to each detail.

Response: The rule has been amended as follows: "19.2.b. A center shall require the following sign-in and sign-out information:", "19.2.b.1. Arrival time including the date and time", "19.2.b.2. Departure time including the date and time", "19.2.b.3. The name and signature of the adult who drops off the child", and "19.2.b.4. The name and signature of the adult who picks up the child."

19.3 a **Comment:** Sentence clarity-" to be kept either by the" Change the end of the sentence to read " last names of each child boarding the vehicle.

Response: The rule has been amended as follows: "19.3.a. A center shall provide a passenger log to be kept either by the driver of the vehicle or the designated staff member riding on the vehicle that shall include the first and last names of each child boarding the vehicle."

19.3.b **Comment:** Some of the words seem unnecessary. Try: Immediately *upon* unloading a child from a vehicle either at the center or on field trips or before parking the vehicle, the driver or a designated staff member shall physically search the vehicle to ensure that all children have been unloaded.

Response: The rule has been amended as follows: "19.3.b. Immediately upon unloading the last child from a vehicle at the center or on field trips, or before parking the vehicle, the driver or the designated staff member shall physically search the vehicle to ensure that all children have been unloaded."

19.3.c Comment: Too wordy- How about The driver or designated staff member shall deliver the transportation log to the person responsible for maintaining attendance records.

The second sentence needs to be a separate rule and needs to be revised slightly. I had to read it several times to interpret. I think it means” The driver or designated staff person shall ensure that attendance records are updated by the end of the day, IF the vehicle is parked at another location.”

Response: The rule has been amended as follows: “19.3.c. The driver or the designated staff member shall deliver the transportation log to the person responsible for maintaining attendance records” and “19.3.d. The driver or designated staff member shall ensure that attendance records are updated by the end of the day if the vehicle is parked at another location.”

19.4.a Comment: Wordy - for the group, and the space designated for use by the group both at the center and at off-site locations used during field trips.

Response: The rule has been amended as follows: “19.4.a. A center shall prepare a written, daily roster that includes the first and last names of each child in each group of children, the name of the staff member responsible for the group, and the and the space designated for use by the group both at the center and at off-site locations used during field trips.”

19.4.c Comment: “upon returning from a field trip.”

Response: The grammar change has been made as suggested.

19.5 Comment: Mixed reference. Does “that is easily accessible’ refer to the child or the file? “The center shall develop and maintain an emergency file that includes information on each child and that is accessible.....”

Response: Both should be accessible.

19.5 and 19.6 Comment: Here you are adding sentences to the title. In other places, the title stands alone. Should this not be consistent.

Response: The titles have been deleted.

19.6 Comment: A center shall develop, implement and maintain policies and procedures for responding to an emergency that considers the age and physical and mental abilities of the enrolled children, types of emergencies likely to affect the area, the requirements fo the State Fire Marshal and advice from the Red Cross or other health and emergency professionals. Plans shall be included for: 19.6.b.1 Evacuation from a center during an emergency situation that could potentially damage the center or harm staff or children and 19.6.b.2 Evacuation from a vehicle used to transport children.19.6.c Move this to the end of the section and reword it as shown below in 19.6.f:

19.6.d and e Remove the word “for” to match the changes in 19.6. and change numbering,19.6.f A center shall document that it has reviewed its emergency plans . . .

Response: The rule is sufficient as written.

19.6.a Comment: You wound up using the word “including” three times here. Could you either split this into two rules or reword it? For medical and non-medical emergencies and for situations that pose a hazard to staff and children, including a fire.... (Remove period after including)

Response: The rule has been amended as follows: “19.6.a. For a medical and non medical

emergencies and for situations that could pose a hazard to staff and children, including, a fire, storm, flood, chemical spill, power failure, bomb threat or kidnaping”

19.6.b.1 **Comment:** Evacuation from a center during an emergency situation that could potentially damage the center or harm staff or children

Response: The rule is sufficient as written.

19.6.b.2 **Comment:** Evacuation from a vehicle used to transport children

Response: The rule is sufficient as written.

19.9.b.4 **Comment:** Put an “and” at the end.

Response: The grammar change has been made as suggested.

19.9.b.5 **Comment:** End this with a period and remove the “and”.

Response: The grammar change has been made as suggested.

19.11.a.2 and 4 **Comment:** Both sentences would fit better with 19.11.a. if they started with “the name and telephone number and ended with “ if a center....”

Response: The rule is fine as written.

19.11.b.1 and 2 **Comment:** Try “If” rather than “when”

Response: The rule has been modified as suggested.

20.1 **Comment:** Smoke and tobacco free environment (VERY GOOD!!!!) HOPE WE CAN KEEP THIS ONE.

Response: Thank you.

20.2.e **Comment:** This sentence fits better with 20.2 if you start it with “Maintain a temperature . . . in all rooms used by the children.

Response: The rule has been amended as follows: “20.2.e. Maintain a temperature not less than sixty-eight (68) degrees Fahrenheit at floor level and not higher than eighty-five (85) degrees Fahrenheit, in all rooms occupied by a child.”

20.2.f **Comment:** To ensure sufficient lighting ,the center shall:

20.2.f.1 Provide a minimum of 50..... in rooms occupied by a child for program activities.

20.2.f.2 Provide at least 30..... in areas not used by a child.

20.2.f.3 Provide light for supervision when a child is sleeping.

20.2.f.4 Provide outdoor lighting..... when a center operates....

Response: The rule has been modified as suggested: “ 20.2.f. To ensure sufficient lighting, the center shall”, “20.2.f.1. Provide a minimum of fifty (50) foot candles of illumination at floor level, in rooms occupied by a child for program activities”, “20.2.f.2. Provide at least thirty (30) foot candles of illumination at floor level in areas not occupied by a child”, “20.2.f.3. Provide light for supervision when a child is sleeping; and”,and “20.2.f.4. Provide outdoor lighting at all entrances and exits used by a child when a center operates evening or nighttime programs.”

20.3.f **Comment:** Heating devices: I feel this should include baseboard heaters.

Response: We disagree, this requirement was reviewed and approved by the State Fire Marshall.

20.4.a.1.b **Comment:** "the fence ~~is free of~~ has no openings"

Response: The rule has been modified as suggested.

20.4.a.2 **Comment:** Awkward - Suggestion- A center may use an unenclosed outdoor play area only for school-aged children and only if determined to be hazard-free by the Secretary.

Response: The rule has been amended as follows: "20.4.a.2.A center may use an unenclosed outdoor play area for school-aged children and if determined to be hazard-free by the Secretary."

20.4.b **Comment:** Can child care centers really meet these requirements within two years. Could we set up a requirement for a five year plan to be submitted and continue to license the center, as long as the center completes a portion of the plan each year?

20.4.b **Comment:** This will cause a financial burden on many centers. I do not believe this should be a requirement. We choose not to have wheeled vehicles because of liability issues.

20.4.b **Comment:** Surfaces for playgrounds-I am concerned about the ability of centers to financially meet this in a two year period. It is important for our children's safety but this can be a financial burden?

Response: We agree that this may be an undue hardship on centers and have modified the rule to allow a four year time frame from the effective date of the rule to meet these requirements.

22.1 **Comment:** Transportation: This is less than we have now.

Response: Although the section is titled transportation, transportation related issues are addressed in other sections of the rule which coincide with current requirements.

22.1.c **Comment:** Are children under 4 required by law to be in a safety seat, or just those under a certain height?

Response: WV Code §17C-15-46 requires children under the age of three years to be placed in a child passenger safety device system meeting federal safety standards.

PUBLIC COMMENTS REGARDING
TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF HUMAN SERVICES

SERIES 1
DAY CARE CENTERS LICENSING

From: <KDTTRIO@aol.com>
To: <pcartus@wvdhhr.org>
Date: Fri, Jun 21, 2002 6:40 PM
Subject: Day care regulations

Why is the Board of Education Preschools excluded from regulations?

From: <KDTTRIO@aol.com>
To: <pcartus@wvdhhr.org>
Date: Sat, Jun 22, 2002 9:51 AM
Subject: New Child Care Regulations

ACDS/CDA should be the qualification for all directors no matter what type center. I, II, or III.

8.6b Instead of 2 years to comply with education and training requirements 3 years and grandfather employees who have 7 years work experience in that day care setting.

From: "Mollie Wood Stanley" <mbwood@access.k12.wv.us>
To: <Pcartus@wvdhhr.org>
Date: Thu, Jun 27, 2002 3:40 PM
Subject: Day Care Licensing Rule (Title 78 CSR 1)

June 27, 2002

Day Care Licensing Rule (Title 78 CSR 1)

Dear Ms. Cartus,

To ensure no conflict exists with regulations in the Child and Adult Care Food Program, I compared the new licensing rule to the CACFP regulations, 7 CFR 226. The only inconsistency I found was regarding the Infant Meal Pattern for children up the 12 months of age. Under the "Supplement" column for children 4-7 months, federal regulations stipulate 4-6 ounces of formula or breast milk, not 4-8 ounces, as it is written.

I distributed the Food and Nutrition sections of the new rule to WVDE, Office of Child Nutrition staff who work with child care centers and will provide any additional comments from them to you prior to the the July 18, 2002 deadline. If I can be further assistance, please let me know.

Mollie W. Stanley
Coordinator, Office of Child Nutrition
West Virginia Department of Education
Building 6, Room 248
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305
Phone: 304-558-3396
FAX: 304-558-1149

CC: "Gloria Cunningham" <gjcunnin@access.k12.wv.us>, "Kristi Rutherford" <krutherf@access.k12.wv.us>

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Sun, Jun 30, 2002 7:45 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 64.12.101.159
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; AOL 7.0; Windows NT 5.1; Q312461; Roadrunner)
Date: Sunday June 30, 2002
Time: 07:47 PM -0400

Comments:

If the Board of Education Preschool Programs are exempt from these regulations then why wouldn't Head Start Programs be also? I know that in some states they are. Head Start Programs have federal regulations ---- isn't that enough?

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Mon, Jul 8, 2002 2:51 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 129.71.73.254
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.5; Windows 98)
Date: Monday July 08, 2002
Time: 02:52 PM -0400

Comments:

I am very pleased with the comprehensive content and professionalism shown in the proposed day care center regulations. The new regulations will help raise the quality of care provided to children in West Virginia. They are thorough, easy to read, and clarify responsibilities of center directors and staff.

The only comment I would make is that the out-moded term "day care" should be replaced with the term "child care". Our emphasis now is on the individual child in center care, not on the length of time (day) that care is provided.

Thank you for the outstanding proposed regulations!

Nancy Jane Cheshire
Early Childhood Program Coordinator
Fairmont State Community and Technical College
1201 Locust Avenue
Fairmont, WV 26554
(304) 367-4588

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Tue, Jul 9, 2002 10:42 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 209.190.166.179
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows 98)
Date: Tuesday July 09, 2002
Time: 10:43 PM -0400

Comments:

I have alot of comments. Please bear with me. My name is Irene Rhodes and I operate Miss Irene's Child Care in Martinsburg, WV.

1. Recently I was advised that parents can not send packed lunches to the Center. There is no mention in that in the regulations. First, if it isn't written - - it doesn't truely exist to Directors, and Second, how could that possibly be possible? Parents may send lunches to public schools - - how could reg's be so different for the same child only at a different location? And since when are parents forbidden to feed their own kids? WE go on field trips every day with school agers and they bring a packed lunch from home - - - how could this be wrong? Each lunch is refrigerated, etc. Geez !
2. Are Parks & Rec. programs licensed? If not, why? Those children do not need to be signed in/out, nutrition is not addressed, ratios are not followed, and ages of staff is as low as 14. Go figure. If they charge kids \$1.00 per DAY, aren't they claiming to be CHILD CARE from 9am-3pm. This is a real thorn in my side. How are bonifide Centers to compete with \$1. per day and NO RULES? If they ARE licensed, who is watching over their program? No one is in Berkeley, Jefferson & Morgan County that I know of.
3. Kids are kids are kids..... how can our State, in good faith, administer strict guidelines for a 6 year old in Day Care, but that same 6 year old attending Parks & REc. programs, or Art's Programs, (etc.) be exempt from rules? Doesn't that child deserve the same protection where ever he/she goes?
4. No mention anywhere in the reg's that swimming pools, trampolines, and tumbling mats are forbidden. Are they? What if there are "certified" teachers? My Licensing Agent, Donald Dick, doesn't allow them.....but I can't find the "rule".
5. Have we forgotten the Power of Play? Does every single video and every single computer game, or every single song have to be "educational"? Have we forgotten how vitally important PLAY is? Why have we stopped encouraging PLAY?
6. Our Reg's are much stricter than even public school reg's. For example: I have to have 12 inches of play mulch on my playground, but 2 blocks away there are public schools who only have an asphalt playground. Does that make sense? Again, doesn't that same 5 year old deserve the same protections at both places? This makes me crazy nuts!!
7. Mountainheart recipients are not mentioned. Shouldn't reg's include the do's and don'ts of Mountainheart since it is a State Funded program? For example: Are we required to accept ALL M'heart applicants? Or, are we only 'required' to have 25%, then after that it is our call? In order to qualify for grant monies, shouldn't Centers be advised they must have at least 25% State Funded children?
8. I would like to see the WHOLE State work together regarding Day CARE. For example the food program, the Mountainheart Program, the CPS Program, the Health Dept., the Fire Marshall ALL HAVE SEPARATE RULES THAT CONFLICT ONE ANOTHER. Can't our State make Day Care rules that encompass all of the agencies which affect kids? Twyla Carr, my Health Dept. Agent did not want me to have a propane gas powered restaurant-style stove on the premises.....because the propane MIGHT catch fire.....what about those kids safety when they eat at Outback? Why are my rules tougher than theirs?
9. I'm sure I sound like I'm moaning and groaning....sorry....I've been in this business for almost 30 years and I've seen it all.....I am truely an advocate for children and I would love for somebody to respond to the

8 questions/concerns above. Thanks I really appreciate the opportunity to respond.

Irene Rhodes
chkids@intrepid.net
304-264-1433

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Tue, Jul 9, 2002 10:49 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 209.190.166.179
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows 98)
Date: Tuesday July 09, 2002
Time: 10:51 PM -0400

Comments:

:(The word "requirements" is not spelled correctly on the first web page.
OOPS!

From: "helena ellis" <helenaellis21@hotmail.com>
To: <Pcartus@wvdhhr.org>
Date: Sun, Jul 14, 2002 7:32 PM
Subject: Comments regarding the proposed Day Care Centers Licensing Rule

Ms. Cartus:

I have read the entire proposed Day Care Centers Licensing Rule and feel that the proposed rules, for the most part, are reasonable, attainable, and will improve the quality of care for all children in day care centers. I commend those who have worked on this document with the thought in mind of protecting and educating young children.

I would like to comment about some of the rules, citing each rule by number and following with my concern or suggestion.

8.5.f

Join the world's largest e-mail service with MSN Hotmail.
<http://www.hotmail.com>

From: "helena ellis" <helenaellis21@hotmail.com>
To: <Pcartus@wvdhhr.org>
Date: Sun, Jul 14, 2002 11:42 PM
Subject: Comments regarding the proposed Day Care Centers Licensing Rule

Ms. Catus:

You received the first part of my message by mistake. Here are my comments regarding the proposed Day Care Cemnters Licensing Rule:

8.3.c.2. It is reasonable to evaluate all new staff members after 3 months and annually, however, evaluating all new staff at 6 months and evaluating staff who have started working in a different age group is a time consuming task. I'm sure you are aware of the high turn over in staff child care centers. I can imagine myself doing 3 and 6 month evaluations and not having time to do anything else.

8.5.f. This rule would be great if center directors were always given notice that employees are leaving so we would have the time to adequately interview, select an individual for a vacancy and have the new employee get their physical BEFORE working. In reality, however, many child care staff do not give adequate notice, and even when they do, 2 weeks notice is not sufficient time to advertise a job opening, receive applications, interview, select a new employee AND get a physical. A reasonable amount of time needs to be given to get a physical, at least 2wks or 1 month. New staff are not always able to get an appointment right away with their physician. If a physical is needed before starting work, I believe we will be working with staff shortages at times. Please reconsider how this is written.

What is a "recent" health assessment?

8.6.f.1 Are "all" staff required to have CPR and First Aid, including support staff such as secretaries, cooks, maintenance? Training all staff will be a financial burden on centers. My current practice is to have at lease half of my staff trained at any given time-it has worked well for us.

86.f.2 Please!!! What kind of training is needed to give a child a spoonful or dropper of medicine. We have been giving children meds for 12 years without "training" and no incidents. If there is a need for administering meds which is out of the ordinary, then perhaps training could be necessary. Again, another added expense to centers to find someone to train, pay them, pay staff while in training, pay a substitute to work. I believe this rule is a bit much! It is a good rule, however, for staff to know side effects of meds. This would help them understand why is child has a rash, is cranky, etc. Parents should be required to supply this documentation as supplied by the RX.

9.1.g. Why are day care directors able to have different levels of qualifications depending on the number in their center? Aren't the children in a Type I centers due the same high level of care and leadership as those in a Type III center? Additionally, doesn't it take the same skills and knowledge to lead a center with 30 children as it does a center with 60 or more? I believe this rule discriminates against large centers and allows

smaller centers to be operated with folks with lesser training. All directors should have one level of training. This rule would be less confusing if one criteria was set for directors.

9.2. I do not believe a person-in-charge in the absence of the directors necessarily needs to be qualified as a teacher. Qualifications should include more of managerial skills. Can a director trust this individual? Are they level headed to make management decisions and other operational decisions that need to be made in a director's absence? Will this person carry on as the director would wish? A director needs to choose a person in charge that may have entirely different qualifications and skills than a teacher. As a matter of fact, I have a CDA teacher who does wonderfully with children, but I would not leave her in charge of the center for anything. A director needs to be able have some discretion in this area, not just based on who has what training.

9.2 - 9.3 - 9.4 - 9.5 - 9.6 - 9.7 - 9.8 This section is set up like a large corporation. This all sounds good on paper, but so confusing. Assistant teacher-teaching assistant--Can this be simplified? How long does a center have to comply with these training rules? My problem is that I get employees trained, then they find a better paying job, I train another person and they find a better paying job, etc., etc., etc. How can we pay what these people deserve when we cant afford to raise child care rates in WV because families cant afford it? Have you thought about this? This is a real concern for all of us at centers and trying to meet new rules.

10.4.c.2.C.3. This rule will cause a hardship on the center. Why can't the driver be considered as part of the child/adult ratio? Most centers do not have the luxury of having an additional staff member to drive and not be included in the ratio.

11.5.a. - 11.5.b - 11.5.c In some cases, I feel that center staff, even directors are not qualified to make behavior management plans. Social workers, counselors, and case managers provide these kinds of services. Providing written plans and written progress reports sounds great, but with all the other proposed rules that require written reports, written evaluations, etc., where does one find the time to implement all these requirements. A director would need a full-time assistant, which of course, we cant afford. Teachers and aides do not have the time to record steps taken during implementation--they are busy watching children!

14.4.a. A written, individualized schedule? Meet with parents and discuss the child's needs, but a written, individualized scheduled? In reality, children in group care gradually conform to the center schedule. Children eat at specific times, have outdoor play together, sleep at the same time. If children slept at different times and ate at different times, there would be total chaos. With all due respect, if a child needs a written, individualized plan, he/she should be in private care. If a child with special needs is accepted into care, then perhaps a plan and instructions needs to be written. This proposed rule is overkill.

14.10.a.5. Are helmets a requirement when a child rides a tricycle or scooter at a day care center. This needs to be clarified.

15.2.a The proposed rule states: Prior to admitting a child....then says a center shall have on file no later than thirty days after the admission..... Which is correct--prior to admission OR no later than thirty days? It would seem that parents need 30 days to get this info. If required before admission, parents would not be able to have care for their children as needed.

15.4.b.2. Is this rule saying that the staff are to have a file on each child a record any time the child appears to be ill, etc., or does this mean in the file kept in the office? Why does this information need to be recorded in a file? Teachers do not have time to do all of this recording. They need to be supervising children.

15.4.i.4. Teachers do not need special training to dispense meds, with the exception of special meds for unusual illnesses or special needs children. This rule is ridiculous!

19.2.a. Is it not necessary for a parent/guardian to sign a child in and out? When the rule says designated adult to sign each child in and out, does that mean a staff member and not the parent?

19.2.b. Should this read: A center shall require.....the date and exact TIME (including hour and minute)?

20.4.b. This will cause a financial burden on many centers. I do not believe this should be a requirement. We choose not to have wheeled vehicles because of liability issues.

22.1.c. Are children under 4 required by law to be in a safety seat, or just those under a certain height?

General Comment: I feel that much of this proposed rule requires a mountain of written records and should be reconsidered. It is not I am against keeping necessary records, but these rules suggest that so much be written, I really don't know when staff will have time for the children. Working in a classroom, staff must give as much time as possible to the children, not writing information that will probably never be looked at again.

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Mon, Jul 15, 2002 1:54 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.186.168
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.0; Windows 98)
Date: Monday July 15, 2002
Time: 01:55 PM -0400

Comments:

First of all I do like how things are defined more specifically. This will reduce some of the individual interpretation that leads to differences. There will always be some of it but this can reduce it. There are some concerns I have as well as clarifications that are needed in the following items.

∙ 4.9 Grievance Procedure: I am concerned about the Type I centers being able to meet this requirement. This could be expensive depending on what the situation is. They all should be able to have a grievance procedure where issues can be brought to the attention of the operator. However, due process could bring out issues of paying someone while on suspension or back pay for someone who is brought back to work. While most type III centers already have provisions for this, Type I & II centers could have difficulty meeting this.

∙ 6.1.b. The requirement for centers to have a governing body: Once again it could be difficult for small centers to follow the guidelines to get the participants needed to serve. Some larger centers have trouble getting parents to serve.

∙ 6.5.b.2 Information Disclosure: CPS and Law Enforcement should be listed in the exceptions also.

∙ 7.1.a.5.A Prohibiting corporal punishment. I interpret this to believe that it is by anyone even a parent during these times. I agree with that but shouldn't we specify it so we don't get questions later about what a parent can do to their own child while there.

∙ 7.1.a.5.B Reasonable access: What about the federal requirement for unlimited access during the time of care.

∙ 7.6.b Parent volunteers: Will parents be required to obtain the CIB and Health Requirements that all other volunteers are required to do?

∙ 8.4.a.1. A good reputation & character: Sounds too subjective

∙ 8.4.b Person's under the influence. What about parents who come in intoxicated? Could the staff refuse to let the child go with this person. As of now they try to reason with the person, call an emergency contact or the police if possible but we have been told that regardless ultimately a parent cannot be stopped from taking their children.

∙ 8.5.f. Information needed prior to employment: I have heard comments from directors that would make it difficult to hire people if they had to wait until they could get an appointment. They thought the previous 30 days was reasonable.

- ∙ 9.3.d.1 The requirement for staff to have a WV Training Certificate in Early Care & Education. Does this mean they need to have a certificate on the Career Pathways or be approved trainers? All child care employees are eligible for the Career Pathways but to be an approved trainer the person must have experience, education and previous training experience. It will be difficult to hire people with this much experience especially the small centers.
- ∙ 10.4.b.3.A. One qualified staff memeber supervises 8 children: Does this include infants/toddlers during these hours?
- ∙ 10.4.c.2.C.2 Driver may be included in the staff/child ratio on level I field trips. I feel that a safety rider is necessary for all field trips. A level I field trip can be up to 30 minutes. There are a lot of things that could happen and it is difficult if not impossible for a driver to concentrate on driving and supervise the children adequately. Also, no child should be allowed to sit in the front seat due to the danger of air bags.
- ∙ 11.4.b Restraining a child only with a firm grasp... I'm concern with this statement. If someone is not properly trained in even this type of restraint there is a possibility they could hurt the child or themselves if done improperly. This does not mean they can't use reasonable means to protect the child in an emergency but it should not be put in regular practice.
- ∙ 12.2.d Indoor space for summer recreation camp programs. I'm concerned about the 10 square feet / child allowance. Even though the children will be outside most of the time there could be periods of bad weather in which they are in longer and this could get confining.
- ∙ 12.4.b. Allowance for commercial portable toilets for summer programs. I am very concerned about the sanitary conditions of this. Will there be any guidelines or enforcement from the Health Department on keeping them sanitary? The ones I have seen at public events (which are only a few days) are very unsanitary. One being used all summer concerns me.
- ∙ 13.3.c. Jumpers & walkers prohibited (VERY GOOD!!!!) Hope we can keep this one.
- ∙ 13.4.a.1. Allowance of playpens for sleeping. I'm concerned about how much support these give to the children's back during sleep. The 1" thickness mentioned in 13.4.e.7 is not much.
- ∙ 13.4.h List of shall nots in sleeping accommodations (VERY GOOD!!!!) Hope we can keep this one.
- ∙ 13.5.h. & 13.6. Maximize safety..... (VERY GOOD!!!!) Hope we can keep these.
- ∙ 14.7.d.5 Flame retardant sleeping garments: Somewhere I heard during a fire these have melted on children and they received burns from this. I'm not sure if that is true for fabrics used today.
- ∙ 14.9.a Passive media not routinely part of schedule (VERY GOOD!!!!) Hope we can keep this one.
- ∙ 15.1.b Religious exemption from immunizations. Will there be any guidelines on this or is it opening it up to anyone who doesn't want to be inconvenienced to immunize their child?
- ∙ 15.2.c. Medical statement for children under 3 months (VERY GOOD!!!!) This is what we routinely require for waiver requests so this puts it in policy to be done automatically.
- ∙ 15.3.b objection of medical treatment on basis of religion. Does this include behavior plans?

∙ 15.4.i Medication Administration: Sections 1 and 2 appear to contradict each other.

∙ 15.4.i.10 Center may permit a child to carry & self-administer medication. I am VERY concerned about children being allowed to carry their own medication. I can see under some circumstances children could administer their own medication with the appropriate statements and under supervision from the staff. However, they should not be allowed to carry any medication on them that could get in the possession of other children.

∙ 16.4.e. Exception of hot meal due to a special event or unusual circumstance. Will this be defined? I can see some directors using this to get out of providing a hot mea.

∙ 16.9.d Requirement for a center to serve only food & beverages provided by the center or an approved source defined by the health department with the exception of bottles or breast milk. I interpret this to mean they will not be able to allow parents to pack lunches. I do like this and hope we can keep it.

∙ 20.1 Smoke and tobacco free environment (VERY GOOD!!!!) HOPE WE CAN KEEP THIS ONE.

∙ 20.3.f Heating devices: I feel this should include baseboard heaters.

∙ 22.1 Transportation: This is less than we have now.

Teresa Lawlor
Child Care Licensing Specialist

From: <KinderMail123@aol.com>
To: <Pcartus@wvdhhr.org>
Date: Tue, Jul 16, 2002 3:17 PM
Subject: Re:Title 78 CSR 1

July 17, 2002

WV DHHR

Attn: Peggy Cartus

I would like to request additional time to comment on Day Care Centers Licensing Rule (Title 78 CSR 1). I received the letter dated June 17, 2002 on July 1. At that time, I was out of town on business and then I was on vacation July 8 - 12. This only left me five days to read, make notes, and comment on the Rule. I have talked with several directors and they all agree that we need more time to comment since the document is so lengthy and we have so many concerns.

In case additional comment time is not granted, I submit the following comments, although I may have more of them if I were provided more time to do so.

1. 6.1.b.: Businesses should not be accountable to DHHR as to how they run their businesses. DHHR has no right to regulate the make up of governing boards of any private business.
2. 6.1.b.a: See above
3. 6.1.b.4. See above
4. 6.1.c. See above
(DHHR may want to adopt the provisions of 6.1.b-c and require centers with whom they contract certificate care to meet these guidelines; but they should not be required in order to be licensed in WV.)
5. 6.3.1.6: parents should not have the right to object to immunizations. Do they have such a right in the public school system?
6. 6.5.a.1.c.: Requiring centers to keep admission records for three years after a child's discharge has no purpose and would be time consuming and costly to centers. Over 1,000 children came through my center's doors last year-where

- would I store those records and why should I keep them?
7. 7.1.a.5.B: Parents should have unlimited access to the centers-directors should not have authority to define "reasonable". Lots of unacceptable behavior could be covered up while directors, parents and DHHR debate the definition of "reasonable" in a given situation.
 8. 7.4.a: Why should a center request that the parent indicate the sex of their child on the admission form. Asking that information could lead to discrimination charges based upon the sex of a child.
 9. 7.4.c.: Requiring only one emergency contact is not sufficient. Having been in childcare business for 15 years, I have learned that sometimes two contacts are not adequate.
 7. 4.d. and 7.4.e. We do not need information regarding the child's dental provider nor their insurance carrier. Requiring such information is too intrusive into families' business.
 8. 7.4.i. Not all single parents have legal verification of guardianship. This is especially true in cases of single mothers. They have never had occasion to need such verification since custody was never challenged.
 9. 7.6.b. Parental involvement in the center is a nice idea but should not be mandated by the State.
 10. 8.3.c.2: Formal evaluations of new hires should be at the discretion of the owner/administrator. This should not be regulated by DHHR.
 11. 8.5.f.: Obtaining a physical examination prior to employment is not always possible. We are in a business where employees are hard to find and money is tight. Also, it could take weeks for potential employees to obtain an appointment for a physical examination by their physician. Also, pursuant to Fair Labor Standards Act, employers must pay for physical examinations required prior to employment. Smaller centers cannot afford \$75 to \$150 per potential employee.
 12. 8.6.f.1: CPR should count in the 15 hours of training. Also, what are approved trainings? Hopefully not via the WV STARS, which is struggling to keep up with current trainings.
 13. 9.1.b: Staff meetings do not need to be held once per month at all centers (especially with small staffs).

Additionally, DHHR does not have the right to mandate staff meetings. Those should be left up to the administration.

14. 9.1.g.2.A. through 9.a.g.4.C. Small centers need qualified staff as much as larger centers. There should not be a different set of qualifications. My center was once very small. I am a good administrator and businesswoman. Now, I have three large centers. My qualifications have not changed. I needed as much when I had one center as I do now.
15. Basically, I have concerns about the entire section regarding staff qualifications. Time does not allow me to cover this section as thoroughly as I would like. My concern is that requiring staff to meet such stringent requirements will drastically decrease the already very small pool of applicants from which we currently have to hire. This is particularly true in more rural areas of our state.
16. 10.3 Requiring two staff members to be on duty at all times will force centers to limit their hours of operation, thus causing hardship on parents who work early or late hours.
17. Section 11. This section is philosophy and should not be a regulation.

Again, these are a few of my comments. I am leaving for a three day conference this afternoon. I would appreciate the opportunity to comment upon my return.

Sincerely,

Karen Cochran
Administrator

From: "Art Tribbie" <arttribbie@adelphia.net>
To: "Peggy Cartus" <Pcartus@wvdhhr.org>
Date: Tue, Jul 16, 2002 4:33 PM
Subject: New childcare regulations

My purpose in contacting you is to ask you to consider extending the comment period for the subject regulations. These new regulations have been in development for over twenty years and are much needed, but they must be correct, and reasonable to all concerned. I have spoken to other directors in the area and we feel that many of our concerns as owners/directors have been omitted and there are serious concerns about many of the regulations that could possibly put us in jeopardy.

I do not think you have given us sufficient time to closely study and understand many items so that we could make reasonable suggestions for change. Eighty plus pages is a lot to comprehend when we have to constantly refer to the definition section to keep on track. This is the busiest time of year for most centers that operate year round with running our active school age programs and enrolling new children and hiring staff for the fall and springs semesters. We simply need more time to review these regulations. Again, after twenty plus odd years what is a couple more months to be fair to as many as possible. I did not get my letter from you dated June 17, 2002 until Friday, June 28th, so my time to assess this has been limited.

Shirley Tribbie

Owner/Director of Pleasant Day Schools, LLC, NAEYC Accredited, for profit center serving 206 children with a staff of 43.

CC: "Karen Cochran" <kindermail123@aol.com>

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Wed, Jul 17, 2002 8:35 AM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 152.163.197.191
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.01; AOL 4.0; Windows 98; Compaq)
Date: Wednesday July 17, 2002
Time: 08:36 AM -0400

Comments:

The rule is clearer and more organized. Thank you.

Several specific concerns:

15.4.e.- There is a : after fever, is something missing? This is unclear and I am not sure how it will be enforced. Fever means different things - is this fever with behavior change or ???

15.4.f- This section on exclusion is a bit confusing. Unclear on readmission. The new Caring for our Children has some useful language on observable symptoms and return in 3.065. 15.4.g references some readmission but there is confusing language when thinking about the practical application. I wish the whole section could be clearer.

16.9.d- regarding food. Is infant food allowable to be brought by parents? Later in 16.10.d.6 baby food is discussed and coming from home is referenced somewhat, not sure how that relates to this section.

20.4.b Surfaces for playgrounds - I am concerned about the ability of centers to financially meet this in a two year period. It is important for our children's safety but this can be a financial burden?

I found it helpful to have guidance on a variety of issues found in the new rules. 15.4.h.1 and attached appendix is very helpful.

Thanks for the hard work.

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Wed, Jul 17, 2002 9:53 AM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 152.163.207.51
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.5; AOL 6.0; Windows 98)
Date: Wednesday July 17, 2002
Time: 09:55 AM -0400

Comments:

As President of West Virginia Child Care Centers United I would like to request additional time for public comment. Many directors have contacted me this week asking me to contact DHHR for additional time to review the regulations and also to contact centers in their area that do not have internet access. Many folks are on vacation this month and are just becoming aware of the posted regulations.

Thank You, Helen Post Brown, President WVCCU

From: "Peggy Miller" <pmiller@npheadstart.org>
To: <pcartus@wvdhhr.org>
Date: Wed, Jul 17, 2002 12:58 PM
Subject: day care centers licensing rule

8.5.a.1. explanation of the difference between felonious battery and battery as a misdemeanor or statement excluding or including all battery. Statement has caused confusion in interpretation

From: "Tracy Ponsetti" <tponsetti@npheadstart.org>
To: <Pcartus@wvdhhr.org>
Date: Wed, Jul 17, 2002 1:34 PM
Subject: WV Day Care Licensing Rule

Dear Ms. Cartus:

My comments are in regards to the sections of the Licensing Rule related to Parent/Family Involvement and Governance. I believe that there should be more information in regards to Parent/Family Involvement as they are the first and best teachers of their children. The only noted space in the Licensing Rule that I found information relating to Parent/Family Involvement was outlined in Section 4.2.a.15. (A description of expectations for parent involvement.) Studies show that children with high rates of Parent/Family Involvement do better in school and in the community at large.

The information provided in the Licensing Rule Section 6.1.b.1-6.1.b.4, stated that "The governing body shall be comprised of at least (1) one parent of a child currently served by the center, or when no parent is available for the governing body, a parent advisory committee shall be established as described in this section. This is encouraging as it allows the parents to have ownership in the program and the rules that guide it. I believe that it will help to provide consistent services that are child and family focused also.

Thank you for your time taken in regards to reviewing my response to the WV Day Care Licensing Rule. If you have any questions in regards to my comments, please do not hesitate to contact me at tponsetti@npheadstart.org.

Professionally,

Tracy L. Ponsetti,
Family Involvement Coordinator
Northern Panhandle Head Start, Inc.

CC: <tponsetti@npheadstart.org>

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Wed, Jul 17, 2002 3:56 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.64.52
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 4.01; Windows 98)
Date: Wednesday July 17, 2002
Time: 03:57 PM -0400

Comments:

Would it not be helpful to have an appendix on what Universal Health Precautions are? Those opening new centers would have that as part of the packet.

Section 9.8 A substitute may have been employed as a substitute for a long period of time (some university students do this so that they work only when they are not committed to 40 hours a week. They may have only one day free a semester but they have worked at a center for four years.) This ruling would only let them take care of children if someone else is with them. If that was the case we wouldn't be hiring a substitute.

Section 13.5.h.1 Shelves is a part of the group of furniture that must be anchored. If low shelves are anchored that means that the room cannot be rearranged to provide new centers and interest areas. If they could have locking caster wheels so that they wouldn't move it might be more helpful.

13.5.h.2 I question the use of a 4 inch mat with tall indoor equipment. Would that not make the structure unsturdy. We have also been looking for mats to put under equipment and have not found any to be that thick.

15.4.g.2. This statement is very confusing. How can a licensed health care professional determine if the risk of the disease has passed when some children who have been immunized against chicken pox end up with a light case of them. If children are not immunized due to religious reasons are we going to make them pay for time they are not allowed to bring their child to day care? Is the dept. going to pay for the subsidized children who for religious reasons are not vaccinated?

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Wed, Jul 17, 2002 10:34 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 152.163.188.70
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.01; AOL 4.0; Windows 98; Compaq)
Date: Wednesday July 17, 2002
Time: 10:36 PM -0400

Comments:

Definition 3.43 - please remove the "R" in (RACDS) to be (ACDS) for accuracy and consistency with the rest of the document.

8.6 - Staff qualifications. Is there a time period for centers to comply with educational requirements - in particular directors?

8.6.f- refers to "certified" training with a list of kinds of training. I am not sure that there are "certified" trainings of all listed kinds available in the state. Please define First Aid training. Define other trainings

8.6.h.2- Does the state have the capacity for centers to be able to comply with this?

9.1.g.3.A; 9.2.c.3.A; 9.3.d.1- add an or at the end after the ; for consistency, clarity, and accuracy

10.2- The intent here is for centers to create small groups that support children's positive development. The language is vague and unclear about what is expected on having the groups separated. Lots of room for confusion and interpretation.

11.2.j- Fourth word from end "bo" should it be "to"

14.4.c.2 - references a daily report for children under 12 months then 14.4.c.3 requires a report for parents for children under 12 months to be done until children are 14 months??? This is a bit confusing.

14.5- Are these staffing requirements for all age children or for children under 24 months?

From: <LKdirector@cs.com>
To: <Pcartus@wvdhhr.org>
Date: Thu, Jul 18, 2002 12:56 PM
Subject: proposed Rule comments

Under definitions. Licensed Health Care Provider. Dentists were not mentioned. They are licensed and do prescribe medications.

Item 7.5.b. It is prohibitive to carry all of the information listed in 7.4 on each child for off-site purposes. Please require just what is necessary.

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Thu, Jul 18, 2002 1:01 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.165.184
Remote User:
HTTP User Agent: Mozilla/4.7 [en] (Win98; U)
Date: Thursday July 18, 2002
Time: 01:02 PM -0400

Comments:

- 3.32 is confusing. Do you mean: The maximum number of children permitted in a center as determined by the separately computed area of the center's indoor space,
- 3.36 Why is it for less than 12 consecutive hours? A child that stays overnight can be in care for up to 18 hours. Are you wanting to restrict a child that stays overnight to 12 hours?
- 4.2.a.17 Any additional information the Secretary deems reasonable in evaluating an applicant.
- 5.1 The term unrestricted could be inflammatory. The law requires consent to reasonable on-site inspections.
- 7.1.a.5.C.4 Discharge policies.
- 7.1.b The center shall ensure ...
- 7.6 Is this the same meeting as in 7.1.a.2?
- 8.4.d.2. Center staff are present at the center or with the children and the contracted person?
- 8.4.f Too broad. "any reason"?
- 9.1.g.3.B and 9.1.g.3.C? or 9.1.g.3.B or 9.1.g.3.C?

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Thu, Jul 18, 2002 1:35 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 64.12.96.44
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.01; AOL 4.0; Windows 98; Compaq)
Date: Thursday July 18, 2002
Time: 01:36 PM -0400

Comments:

I wanted to send comments not only on the content of the regulations, but on the grammar, punctuation, and the clarity of the rules. I also felt some of the rules needed to be separate. I have a long list of rules for which I am suggesting alternative wording, as well as two comments on actual phase in of the training and playground requirements. I cannot cut and paste them on this e-mail, so I will e-mail them directly to Michael Pack and Kay Tilton.

Comments on Child Care Center Regulations

Title - Center should be singular - Day Care Center Regulations. That's how it is listed by the Secretary of State.

3.5.1 Too informal for a legal document - Serious occurrences are events that either harm a child or could potentially harm the child. They include:

4.4.1 a "shall sign" What do they sign? How about "shall verify in writing"

4.1.e. If the ownership of a center is to change, the new owner shall apply for a license and may not operate until a provisional license is issued.

4.1.f.2 This would be better if it started with "Shall apply....," which means you would need to leave "shall" off rule 4.1.f and add it to 4.1.f.1.

4.1.a.11. How feasible is it to require six months of operating capital. Would three not be sufficient?

4.8 Should this read "an order of closure that terminates operation."? Otherwise, it sounds like all three words are the name of the order. Also, "as indicated in Section 24 of this rule."

6.1.b.1 In the third line, add "ed" to establish.

6.1.b.4 Change of tense on the third line. Change to "conduct", not conducting.

6.1.c Grammar On the last line, you need to change "and meets at least four times... to "that meets at least four times".

6.5.a.1.b Should this end with an "and" or with a period? It appears to be the last of the rules on child records.

6.5.a.2.B. This sounds like one section contradicts the other. It needs to be reworded.

7.1.a.5 Is a comma needed after parent?

8.1 and a volunteer sounds strange at the end of the sentence. Why not change it to.... requirements of this rule including a volunteer or a parent who receives.....

8.3.a "Child Maltreatment Search Release forms"

8.4.a. 5, 6, 7, 8 and 9 - These do not match 8.4.a. which says that a center shall use staff members with: You need to add "The ability to" to each of these sections.

8.4.i "Statement of Child Maltreatment Record Search Release" is there twice.

8.5.d.3 Should this be the last sentence in this section? If so, remove the “and” and replace the semi-colon with a period.

8.5.f “Recent” is subject to interpretation. You need a timeframe.

8.5.f.4 You don’t need a comma before “that”.

8.5.g. You need a comma after “employed”.

8.6.c. Can a summer camp not offer conditional employment? Or what is the exception referring to?

8.6.d.5.safety, including prevention of injury both indoors or outdoors, and fire safety, including use of fire..... You need to tie “indoors and outdoors “ to something.

8.6.f Should this be approved training? Otherwise, you need to define certified training. Is there certified training in abuse recognition and prevention?

8.6.g.1 and 2 Both of these sentences sound better if they start with “Completes management orientation.... and “Signs a statement that is co-signed by the director”

8.6.h. 1,2 , 3 and 4.- None of these rules sound right when you look at the statement on 8.6.h. The wording does not match.

8.6.i. Why do we need “and only a summer recreation camp”?

8.6.i.2 I am not sure what is meant by “in addition to other programs” here. Can this be clarified?

9.1.g.2 and 3 Add “ a minimum of the following:

9.1.g.2.A Define equivalent credential or it will be impossible to enforce. Do you have to have 300 hours with the 12 hours of college credit or with the CDA or with both?

9.1.g.3.A and B. This sounds like you have to have both the ACDS and 28 hours of college credit. Is it both or is it one or the other?

I thought there would be a phase in requirement of up to two years. Why is this not included?

9.1.h. Awkward sentence- Designate a person in charge to fulfil the duties of the director whenever the director is not present at the center.

9.2.c.3.A add “or” to the end to reinforce the fact that the lead teacher only needs to meet one of the three criteria. You need to define equivalent degree.

9.3.d.1 Add “or”

9.4.d.3 What is an equivalent?

9.7 Should you define student intern??

10.1. b. “ performing their duties during work hours”. The other sounds repetitive.

10.2.b Would it sound better to put an age rather than use the words “up to school-age”

10.3.b Isn’t “while children are on the premises” assumed and therefore unnecessary?

11.1. Grammar management ~~and~~ that include

11.2.j Typo - “bo” should be “to”

11.3.d “for the child under school-age” would sound better as “for children under the age of five years.”

11.4.g Tense change- or “placing” the child in a dark area

11.7 “ In order to inform staff about behavior management procedures and child abuse and neglect reporting, the center shall”

11.7.a. ..”.Provide each staff member with a copy..... and the reporting of child abuse and neglect and provide revised policies when changes occur.”

11.8. In order to inform parents of the center’s behavior management practices and child abuse and neglect reporting, the center shall....

11.8.a “ and update parents on policy changes when they occur.”

12.2.d Is 10 square feet enough?

13.2.a Does this mean the tables may not be “multipurpose”? Why?

13.3.c Jumpers and infant walkers are prohibited.”- This should be a separate rule- the first sentence dealt with feeding equipment and the last does not.

13.4 “For children who nap, equipment shall include

13.4.e through 13.4.j Reduce or eliminate the use of “that” at the beginning of each sentence. This is a pretty big section to have each number refer back to “ a center’s sleeping equipment.” You lose track of the subject.

13.5.h.2 Use zones are extended “THEM” Should this be there?

14.4 Put a comma after “months of age, a center...”

14.5 Staff members shall interact personally with “infants and toddlers” by???

14.6 Place a comma between “children, a center”

14.7 A center operating a summer recreation camp shall...

14.7.d.4 Ask the parent to provide ~~the child~~ for the child’s personal use

14.7.5 This sentence needs to be revised.

14.11.f.1 The beginning of the sentence does not match 14.11.f. “Evaluating the child” should come first.

15.2.a This sentence is contradictory. It is either “prior to” or “not later than 30 days after” the admission, but not both. You should rephrase it to say, “No later than 30 days after admitting a child, a center shall have on file the child’s health records...”. Or use “prior to” as a preference, but it should not be both.

15.2.a.2 This sentence is awkward. Could it be rephrased to “including abnormal results of screening tests, including tests for vision and hearing, tuberculosis or lead poisoning.

15.2.3 Again, awkward- Substitute “ Prescribed daily medications and any potential side effects

15.4.a Grammar- observe a child daily, watch for any changes.... and record.

15.4.b Punctuation- when a child is ill, staff members

15.4.b.2 and record it on file. Which file? The child’s record?

15.4.c Is “for any child” necessary? It sounds repetitive.

15.4.c. shall inform the parent that the child is ill?running a fever? You need to say what to inform the parent about.

15.4.f.1 How does the center know the child has a communicable illness? Should you use the staff either suspect or are aware that a child has a communicable illness?

15.4.f.4.D Awkward. Should “is characterized” be “or characterized” or “that is characterized”?

15.4.g. This would sound better as a full sentence, such as “When excluding a child to prevent transmission of illness and readmitting a child, the center shall abide by the following guidelines:

15.4.g.1 Can you use another word besides center here? It is repeated too close together. Can you use "at a center, staff shall exclude"? Or something similar?

15.4.h Should "reportable diseases" be included as a definition?

15.4.i. that include the following procedures when" . Change to "following procedures regarding administration of medication"

15.4.i.8.B Would child's "response" be better described as "child's reaction". Response sound more like a verbal response.

15.4.i.9.E This sentence is so far removed from the original entry that it would sound better to add "... the staff member draws a line...

16.2 b. while protecting the child's confidentiality"

16.7. d -Grammar.... staff members are seated when eating, and ~~THAT~~ staff members... remove that.

16.9 a Food preparation **areas**- Please add areas if this is what you mean? Or, you could say, Food preparation, service and storage areas"

16.9.d What about baby foods??

16.10 This seems to include the title of the section and a rule. Should they not be separate?

16.10.c What do you mean by "definite" place for the child to sit while eating? This is too long. Could you divide into two rules?

16.10.d.5. ... before to filling them. Omit "to".

16.10.d.6. Handle baby food "in the following manner"

16.10.d.7. Handle breast milk and formula in the following manner. A center shall:

16.10.d.7 A, B, C. and D. Take "shall" our sent it was added above.

16.10. e. "For safe drinking water practice" is awkward. Could you say " In order to provide sufficient amounts of safe drinking water, the center shall ensure that:

16.10.e.2 after one use, and ~~that~~ a.... (You already have a "that" in your first sentence)

17.1.a.2. Take out "when" on the lead sentence. When you read it with some of the following sections, it does not read correctly. Then add the "When" on number 17.1.a.2.A.

17.1.b “With the exception of breast milk” might be more readable. Also, would it still be what you want to say if you changed the second, “staff members” to “they”?

17.1.b. Alternate wording suggestion: Center staff shall follow the guidelines for diapering and toilet training outlined in Appendix....

17.1.c.2.b. Too wordy. Would this say it?

A center shall either provide toilet fixtures that are sized so that the child can use them without assistance or provide step stools or modified toilet seats that are safe and easily disinfected, if appropriately sized fixtures are not available.

17.2.b This is really two rules. If you did a checklist, this would be checked separately.

18.1 Too wordy. How about? A center shall ensure that animals on the premises show no signs of disease or illness and shall maintain documentation of current vaccinations on dogs and cats. Although, I really think it is two rules again.

18.3 Too many commas- Maybe this should be changed to:

A center shall not have any of the following pets on the premises:

18.3.a Ferrets;

18.3.b Birds, including birds of the parrot family;

18.4.c. Reptiles, including snakes, lizards and turtles; and

18.4.d. Any wild or dangerous animals.

19.1 . This sentence sounds better if you don't interrupt the flow and just say.... to ensure that at all times it always has

19.2.b This is a run-on sentence which takes several readings to make sense. While it saves space, the content suffers. Make it into separate pieces in order to bring attention to each detail.

19.3 a. Sentence clarity-“ to be kept either by the” Change the end of the sentence to read “ last names of each child boarding the vehicle.”

19.3.b Some of the words seem unnecessary. Try: Immediately upon unloading a child from a vehicle either at the center or on field trips or before parking the vehicle, the driver or a designated staff member shall physically search the vehicle to ensure that all children have been unloaded.

19.3.c Too wordy- How about The driver or designated staff member shall deliver the transportation log to the person responsible for maintaining attendance records.

The second sentence needs to be a separate rule and needs to be revised slightly. I had to read it several times to interpret. I think it means” The driver or designated staff person shall ensure that attendance records are updated by the end of the day, IF the vehicle is parked at another location.”

19.4.a Wordy - for the group, and the space designated for use by the group both at the center and

at off-site locations used during field trips.

19.4.c “upon returning from a field trip.”

19.5 and 19.6 Here you are adding sentences to the title. In other places, the title stands alone. Should this not be consistent.

19.5 Mixed reference. Does “that is easily accessible” refer to the child or the file?
“The center shall develop and maintain an emergency file that includes information on each child and that is accessible.....”

19.6.a. You wound up using the word “including” three times here. Could you either split this into two rules or reword it? For medical and non-medical emergencies and for situations that pose a hazard to staff and children, including a fire... (Remove period after including)

19.6 A center shall develop, implement and maintain policies and procedures for responding to an emergency that considers the age and physical and mental abilities of the enrolled children, types of emergencies likely to affect the area, the requirements fo the State Fire Marshal and advice from the Red Cross or other health and emergency professionals. Plans shall be included for:

19.6.b.1 Evacuation from a center during an emergency situation that could potentially damage the center or harm staff or children;

19.6.b.2 Evacuation from a vehicle used to transport children;

19.6.c Move this to the end of the section and reword it as shown below in 19.6.f:

19.6.d and e. Remove the word “for” to match the changes in 19.6. and change numbering

19.6.f A center shall document that it has reviewed its emergency plans.....

19.9.b.4 Put an “and” at the end.

19.9.b.5 End this with a period and remove the “and”.

19.11.a.2 and 4 Both sentences would fit better with 19.11.a. if they started with “the name and telephone number and ended with “ if a center....”

19.11.b 1 and 2 Try “If” rather than “when”

20.2.e . This sentence fits better with 20.2 if you start it with “<Maintain a temperature.... in all rooms used by the children.

20.2.f To ensure sufficient lighting ,the center shall:

20.2.f.1 Provide a minimum of 50..... in rooms occupied by a child for program activities.

202.f.2 Provide at least 30..... in areas not used by a child.

202.f.3 Provide light for supervision when a child is sleeping.

20.2.f.4 Provide outdoor lighting..... when a center operates....

20.4..a.1.b “the fence ~~is free of~~ has no openings”

20.4.a.2. Awkward - Suggestion- A center may use an unenclosed outdoor play area only for school-aged children and only if determined to be hazard-free by the Secretary.

20.4.b Can child care centers really meet these requirements within two years. Could we set up a requirement for a five year plan to be submitted and continue to license the center, as long as the center completes a portion of the plan each year?

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Thu, Jul 18, 2002 1:55 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 66.109.184.186
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.5; Windows NT 5.0)
Date: Thursday July 18, 2002
Time: 01:56 PM -0400

Comments:

- 9.2.c.3 (18/21 year age discrepancy in qualifications)
- 13.4.a.3 (mats should be allowed for rest time for 3-5 age preschoolers. We have been following the current cot only at a great expense to the program.)
- 12.2.b.4 (clean surface for diaper changing. We have purchased changing tables for 3-5 age preschoolers at great expense. There are portable changing tables that fit the new regulations-I believe that portable changing tables for children 3 years and over is appropriate.
- 13.5.h.3 (Size of small toys not be smaller than diameter of 1 and 1/4- However, in 78-1B and 78-1C children younger between 7-24 months can play with wrist/ankle bells or bells on a handle- this is a dangerous toy at that age due to possibility of child swallowing bell)

From: <JFarisathome@aol.com>
To: <PeggyCartus@wvdhhr.org>, <Pcartus@wvdhhr.org>
Date: Thu, Jul 18, 2002 3:07 PM
Subject: comments on child care regulations

Day Care Center Licensing - overall these are comprehensive and reflect best practices - the Health and Safety section in particular are complete and will help improve the quality of child care.

Family Child care Regulations - in some areas these need to be more comprehensive - particularly in the area of health and safety. Medication Administration needs to be comparable to the center licensing regulations... Medication Administration carries the highest liability of any activity carried out in child care and to protect both providers and children strong regulations and training in medication administration is required.

I recommend that standards 15.4.h from the Day care Center licensing regulations be adopted for Family Care Providers. These are basic to safe administration and family care providers need to be aware of best practices in this area.

Thank you for the opportunity to comment on the regulations - Joan Faris - Consultant with Health Child Care West Virginia

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Thu, Jul 18, 2002 3:27 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 207.68.90.220
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.01; Windows NT 5.0)
Date: Thursday July 18, 2002
Time: 03:28 PM -0400

Comments:

My comment concerns the difference in the Federal Performance Standards for infants and toddlers that governs all Early Head Start Programs that serve infants and toddlers birth to three years of age. Child staff ratio for Early Head Start is one caregiver to four infants/toddlers and our group size for this age is not to exceed eight. The WVState Regs. ratio starts at 3 months to 2 years for one to four ratio. The ratio then changes as well as the total group size serving three year old. This is confusing when Early Head Start applies for child care license to serve infant and toddlers age 3months to three years. The Federal Regs. for infants/toddlers 3months to three years are the most stringent and utilizes small group and best practices for this age group. Please take in to consideration to allow all Early Head Start Programs child care license to reflect these federal mandates on state child care license. Thank you.

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Thu, Jul 18, 2002 3:49 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 66.109.184.186
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.5; Windows NT 5.0)
Date: Thursday July 18, 2002
Time: 03:51 PM -0400

Comments:

There seem to be inconsistencies with different regulations on the acceptable age of staff working in day care regulations 3.59,3.68 and 9.2.c.3

West Virginia Head Starts has proven to be able to deliver services to children in a safe, developmentally appropriate environment, with qualified staff. In other words Head Start has justified the recommendation that they be exempt from these reg. Our performance standards already mandates we go above and beyond state req.

The Health needs- I recommend all children be required to have up to date immunization before entering a day care.

Regulations are to be enforced consistently at all licensed child care in West virginia and at times they are not.

From: "Jennifer Trippett" <cubbys449@citynet.net>
To: <pcartus@wvdhhr.org>
Date: Thu, Jul 18, 2002 3:53 PM
Subject: can not access on line comments for ner regs sending E-mail

July 17, 2002

WV DHHR

Attn: Mary Bennington

PO Box 6165

Wheeling, WV 26003

I would like to make the following comments on the new Day Care Centers licensing rule (Title 78 CSR 1). I am the director of two centers; each licensed for 64 children.

1. 3.13a if the public schools are going to be doing "daycare" this would be the perfect time to include them in the regulations.

1.. 3.35.b.3 A lot of times the child is asleep during the scheduled dosage time. I don't think this should be considered a medication error.

2.. 3.51.b This is going to happen from time to time especially when you are taking care of 120 children a day. I don't think we should have to fill out all that additional paper work for an accident that may happen. It will be added paper work for us and the licensing staff.

3.. 3.51d This means I would have to file a serious occurrence report every time a child slept through their scheduled dosage time of a medication. This could become very time consuming for the directors and the licensing staff.

4.. 4.6.a.1 This could have serious ADA complications.

6. 4.9.a.1 No business should be told they have to have a policy that ensures parents of children can express concerns file grievances. This sounds more like a Head start requirement than something that should be issued for private businesses.

7.4.9.a.2. See above

8.4.9.a.3. See above

9. 6.1.b.1. It is fine to recommend or require a governing board but no private business should be told they have to have a paying "customer" on that board, this to sounds like head start.

1.. 6.1.b.3. This many meetings on top of staff meetings, training's, etc., would be a hardship for any business, especially a business that already requires most directors to work 45 plus hours a week.

2.. 6.2.a.4. Why?

3.. 6.5.a.1.B. Three years is entirely too long to maintain all these files especially for a large center.

4.. 7.1.a.3 I don't think I should be told to discuss it with the parents. Sometimes I see 4-5 parents a week and this would be to time consuming. I think giving it to them would be sufficient, and I always tell parents that if they have questions about any of the policies to ask.

5.. 7.1.a.4. It is no private individuals business who I have my liability insurance with. As long as the state knows I have it and parents know it is required that is sufficient. This would allow parents who work at insurance companies to try and solicit my business.

6.. 7.1.a.5.A Does this mean I have to tell parents they can't "spank" their own child while dropping off or picking up? I don't feel it is any of my business while they are here to dictate how they should act, unless it would be abusive.

7.. 7.1.a.5.C. I don't have time to discuss all of these policies. I go over the most important ones and then tell the parents to ask if they have any questions. The word DISCUSSED needs taken out of this.

8.. 7.1.c. This should be allowed based on a blanket field trip permission form and then a letter about a field trip or posting it. During the summer it would not be possible to get a permission form filled out every day for their field trips.

9.. 7.4.c. Some of the parents who are new to the area don't have any one else to list. As long as I have more than one way to reach them it is fine. (Ex. Cell phones, or pagers).

10.. 7.4.d. Most children under 4 years of age don't have a dentist yet.

11.. 7.5.b. This is too much information to have to take with us on every field trip during the summer. All we need is basic info.

12.. 7.4.i. The date of discharge is kept in the billing records. I don't see any good reason to make copies of all this info and put in the child's file that we shouldn't even have to keep.

There are several more comments I would like to make if time permitted. However I will say that I am rather disappointed with the new regs. I don't feel like they do a whole lot to raise the quality of care in areas such as staff/child ratios and curriculum. The only big difference between the new and old regs seems to be a lot of paper work for the directors and a lot more staffing qualifications in a line of work that it is already hard to find employees. I feel like these new regs are trying to enforce a lot of head start rules into private businesses that don't have head start funding to meet them. It will be very difficult to require all of these standards when we can barely afford to pay employees anything the way it is and we are pretty sure the state government won't be coming up with any additional moneys for the next 5 years.

Sincerely,

Jennifer Trippett

Director

Cubbys Child Care Center

449 Cherry Street

Bridgeport, WV 26330

CC: <maryanderson@wdhhr.org>

From: <DHHR Web>
To: <pcartus@wvdhhr.org>
Date: Thu, Jul 18, 2002 4:06 PM
Subject: Day Care Center Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 66.109.184.186
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.5; Windows NT 5.0)
Date: Thursday July 18, 2002
Time: 04:08 PM -0400

Comments:

I am very pleased with the new child care regs, especially the staff/child ratios. I agree that 2 staff members should be on duty at all times. Supervision of the individual child is very well-defined, detailed, and appropriate.
143.a.3. Sleeping routines. I think that a 6 hr. center should require rest and naptime for one hour but a 4 hour center should not require naptime.

From: Joan Skaggs
To: Peggy Cartus
Date: Thu, Jul 18, 2002 4:13 PM
Subject: Proposed Day Care Centers Licensing Rule

Peggy:

I am pleased to have the opportunity to comment upon the proposed Day Care Centers Licensing Rule. Last summer, many committee members spent many hours working on the "Health" section of the proposed rules, and I am extremely pleased to see that our suggestions, comments, and concerns were heard as reflected by the strengthening of the proposed rules.

I am also pleased to find that the issue of medication administration will be addressed with centers developing, implementing and maintaining policies and procedures when administering medication. However, I must question why that same 'best practice' concept of a proposed medication administration policy was not added to the family day care home registration requirements? I feel that those requirements would be strengthened by adding the identical proposed medication administration policy that was so wisely added to the proposed day care centers rules. I would be appreciative of your comments.

Thank you,
Joan D. Skaggs