

TITLE 78  
LEGISLATIVE RULE  
DEPARTMENT OF HUMAN SERVICES

SERIES 1  
MINIMUM LICENSING REQUIREMENTS FOR  
DAY CARE CENTERS IN WEST VIRGINIA

**§78-1-1. General.**

1.1. Scope. -- These regulations establish the rules and regulations of the West Virginia Department of Human Services governing the requirements for the operation of child caring facilities.

1.2. Authority. -- W. Va. Code §49-2.

1.3. Filing Date. -- April 30, 1982.

1.4. Effective Date. -- June 1, 1982.

**§78-1-2. Day Care Center Licensing Information.**

2.1. Introduction. -- Throughout history, child care has been shared by the child's parents along with other relatives, friends and domestics. Changing times have added another dimension to the sharing of responsibility for the child's growth and development. This dimension is the day care center.

The day care center represents the community's response to today's need for supplementary child care, providing a group experience for young children whose parents are working, training, learning or have a particular need for the service. Because the early years are critical in a child's life, the day care center must promote the child's physical, mental, emotional and social growth.

In response to a growing demand for quality day care for the very young, the State Department of Human Services will license center programs for infants, beginning at three (3) months. However, no child caring center may

keep children under two (2) years old unless specifically licensed to do so according to the conditions designated in this document.

2.2. Purpose. -- These standards are the basis for the licensing of day care facilities for children. The standards do not apply to twenty-four (24) hour care, but care that is rendered for a portion of the day. Licenses are issued if the standards and applicable rules and regulations are met. The purposes of licensing is to regulate the provision of day care for children so as to assure care, protection, supervision and the promotion of sound growth and development necessary to the health, safety and Human Services of all children.

2.3. Development of standards of child care. -- The State Department shall be responsible for the development of desirable standards for the care of children. To this end, it shall cooperate with, advise and assist all child welfare agencies, including State Institutions, which care for neglected, delinquent, or mentally or physically handicapped children, and shall supervise all such agencies. The department, in cooperation with the State Department of Health and child welfare agencies, shall formulate and make available standards of child care and services for children, to which all child welfare agencies must conform.

2.4. Definitions.

a. "Child Welfare Agency" means any agency or facility maintained by the State or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association or organization, public or private, to receive children for care and maintenance or for placement in residential care facilities, including without limitation, private

homes, or any facility that provides care for unmarried mothers and their children.

b. "Day Care Center" means a facility operated by a child welfare agency for the care of seven (7) or more children on a nonresidential basis. The term does not apply to:

1. A kindergarten, pre-school education program which is operated by a public school or which is accredited by the State Department of Education, or any other kindergartens, pre-school or school programs which operate with sessions not exceeding four (4) hours per day for any child;

2. A facility operated for nonresidential care for children for brief periods while parents are shopping, engaging in recreational activities, attending religious services or engaging in other business or personal affairs;

3. Summer recreation camps operated for children attending sessions for periods not exceeding thirty (30) days;

4. Family and in-home day care when fewer than seven (7) children are served.

c. "State Department" means the State Department of Human Services.

2.5. Types of day care centers. -- The operation of a day care facility, large or small, is important to its success. Much depends upon the quality of organization, program, staff and structure. There are two types of day care facilities in West Virginia: The voluntary, nonprofit day care center and the proprietary day care center.

These facilities, however, are required to meet state fire and health regulations.

a. Voluntary, nonprofit day care center. -- This type of facility is operated as a community service without expectation of financial gain. It is responsible to a governing board and is

incorporated through the Secretary of State of West Virginia.

It is a requirement that a voluntary, nonprofit day care center shall have a governing board and the board of directors shall have the following responsibilities:

1. To submit to the Secretary of State of West Virginia the articles of incorporation (See Section 2.6 for incorporation procedure);

2. To establish written policies and bylaws;

3. To finance the center and to maintain an operating budget;

4. To file with the Department of Human Services the names, addresses, telephone numbers and terms of services of the current officers and board members and to advise the Department of any changes therein;

5. To hold meetings as often as necessary, with at least four (4) meetings a year;

6. To keep accurate and up-to-date records of meetings and conduct of business;

7. To designate a director or operator of the center, with assigned responsibilities; and

8. To interpret to the community the day care center's purpose and program.

By corporate law, church-sponsored facilities are not authorized to incorporate. However, there shall be an advisory board or governing body for the day care center.

b. Proprietary day care center. -- This type of facility is operated by an individual or group of individuals with the expectation of financial gain. It may be incorporated through the Secretary of State of West Virginia.

2.6. Incorporating a center. -- Before applying for a charter, the Articles of

Incorporation should be written. These must be submitted to the Secretary of State, who shall provide to the State Department of Human Services a copy of the petition, together with any other information in his possession pertaining to the proposed corporation.

The State Department of Human Services makes a charter study, including an evaluation of the purpose and plan of the organization, the evidence of need of the proposed services and merits of the proposed corporation.

No charter shall be issued unless the State Department of Human Services shall first certify to the Secretary of State that the investigation has been made and that the issuance of a charter is recommended.

Applications for amendments of any existing charter shall be similarly referred and shall be granted only upon similar approval.

2.7. License and approval requirements. -- Any person, corporation, or child welfare agency other than a state agency, which operates a residential child care facility, a child placing agency or a day care center shall have a license. Any residential child care facility, day care center or child placing agency, operated by the state shall obtain approval of its operations from the commissioner. Such facilities and placing agencies shall maintain the same standards of care applicable to licensed facilities, centers or placing agencies of the same category.

#### 2.8. Conditions of licensure and approval.

a. A license or approval is effective for a period of two (2) years from the date of issuance, unless revoked or modified to provisional status based on evidence of a failure to comply with the provisions of this article or any rules and regulations promulgated pursuant to this article. The license or approval shall be reinstated upon application to the commissioner and a determination of compliance. The license or approval issued under this article is not transferable and applies only to the facility and its

location stated in the application. This license or approval shall be publicly displayed, except foster family homes, foster family group homes and group homes shall be required to display licenses upon request rather than posting.

b. A provisional license or approval may be issued as

1. An initial license or approval to a new facility which has been unable to demonstrate full compliance because the facility is not fully operational, or

2. A temporary license or approval to an established licensed facility which is temporarily unable to conform to the provisions of this article or the rules and regulations promulgated hereunder.

A provisional license or approval shall expire six (6) months from the date of issuance and may be reinstated no more than two (2) times. The issuance of a provisional license or approval shall be contingent upon the submission to the commissioner of an acceptable plan to overcome identified deficiencies within the period of the provisional license or approval.

c. The commissioner, as a condition of issuing a license or approval, may

1. Limit the age, sex or type of problems of children allowed admission to a particular facility,

2. Prohibit intake of any children, or

3. Reduce the number of children which the agency or facility operated by the agency is licensed or approved to receive.

#### 2.9. Waivers and Variances to Rules and Regulations.

a. Waivers or variances of rules or regulations may be granted by the commissioner if the health, safety or well-being of a child would not be endangered thereby.

b. "Variance" means a declaration that a rule may be accomplished in a manner different from the manner set forth in the rule.

c. "Waiver" means a declaration that a certain rule is inapplicable in a particular circumstance.

#### 2.10. Application for license or approval.

a. "Any person or corporation, or any governmental agency intending to act as a child welfare agency shall apply for a license or approval to operate child care facilities regulated by this article." Applications for license or approval shall be made separately for each child care facility to be licensed or approved.

The commissioner may prescribe forms and reasonable application procedures. Before issuing a license or approval, the commissioner shall investigate the facility, program and persons responsible for the care of children. The investigation shall include, but not be limited to, review of resource need, criminal records, if any, and personal medical records, the financial records of applicants, and consideration of the proposed plan for child care from intake to discharge.

The commissioner shall make a decision on forms provided by the State Department. Forms shall be completed with all information required or the application will be invalid.

Applications for licenses to operate day care centers must be accompanied by:

1. Current fire inspection report by the State Fire Marshal's Office.

2. Current health inspection report by the county Department of Health, Division of Sanitation. (Physical Plant Inspection S6-50 and Food Service Inspection SF-1)

3. Current nutrition inspection report by the Bureau of Nutrition, State Department of Health.

2.11. Supervision and consultation required. -- "The commissioner shall provide supervision to ascertain compliance with the rules and regulations promulgated pursuant to this article through regular monitoring, visits to facilities, documentation, evaluation and reporting. The commissioner shall consult with applicants, the personnel of the child welfare agencies, and children under care to assure the highest quality child care possible. The director of the Department of Health and the State Fire Marshal shall cooperate with the commissioner in the administration of the provisions of this article by providing such reports and assistance as may be requested by the commissioner."

2.12. Investigation authority. -- "The commissioner shall enforce the provisions of this article. An on-site evaluation of every facility regulated pursuant to this article shall be conducted no less than once (1) per year by announced or unannounced visits. The Commissioner shall have access to the premises, personnel, children in care and records of the facility, including, but not limited to case records, corporate and financial records and board minutes. Applicants for licenses and approvals shall consent to reasonable on-site administrative inspections, made with or without prior notice, as a condition of licensing or approval. When a complaint is received by the commissioner alleging violations of licensure or approval requirements, the commissioner may notify the facilities director before or after a complaint is investigated and shall cause a written report of the results of the investigation to be made.

The commissioner may enter any unlicensed or unapproved child care facility or personal residence for which there is probable cause to believe that the facility or residence is operating in violation of this article".

2.13. Administrative and judicial review. -- "Any person, corporation, governmental official or child welfare agency, aggrieved by a decision of the commissioner made pursuant to the provisions of this article may contest the decision of the commissioner upon making a request for a

hearing by the commissioner within thirty (30) days of receipt of notice of the decision. Administrative and judicial review shall be made in accordance with the provisions of Article 5, Chapter 29-a of this code."

2.14. Administrative hearing procedure for licensed or approved child welfare agencies.

a. This administrative hearing procedure applies to "any person, corporation, governmental official or child welfare agency aggrieved by a decision of the commissioner..."

b. Reasons for appeal:

1. Denial of license for child welfare agencies or approval of the specified facilities caring for children.

2. Revocation of a license/approval or placement on provisional status for currently licensed or approved facilities

3. Any adverse decision of the commissioner pursuant to provisions of Chapter 49, Article 2, of the West Virginia Code.

c. Request for a hearing. -- All requests for a hearing must be made in writing within thirty (30) days of receipt of notice of the decision to deny application for a license, revocation of license, or denial of a certificate of approval or revocation of a certificate of approval.

Upon receipt of the request, the state hearing officer will schedule the hearing and give all parties at least ten (10) days notice of the date, time and place of the hearing, and a brief statement of the matters asserted or the issue(s) involved.

d. State hearing officer. -- The hearing will be conducted by an impartial state hearing officer who has not previously been involved in the case under appeal.

The state hearing officer will have the authority to:

1. Administer oaths and affirmations
2. Regulate the course of the hearing
3. Hold conference for the settlement or simplification of the issues by consent of the parties
4. Dispose of procedural request or similar matters
5. Rule upon offers of proof and receive relevant evidence
6. Arrive at a decision based on proper evidence presented at the hearing and rules and regulations regarding the specific program in question.

The state hearing officer does not have the authority to issue subpoenas for witnesses or documents, books or records, although he or she may request voluntary attendance by witnesses or production of records or other evidence which are relevant to the issues in dispute.

e. Procedures in the hearing and decision:

1. An opening statement by the state hearing officer to introduce the purpose of the hearing and briefly set forth rules and procedures to be utilized in the hearing
2. The hearing will be recorded by a mechanical device or by stenographic notes and characters
3. The state hearing officer will administer oaths and affirmations to those individuals testifying
4. The issue or issues to be decided upon in the hearing will be set forth at the beginning. Additional issues may be added during the hearing if agreed by both parties
5. Each party will be given opportunity to present its case without undue

restrictions providing the evidence and information is related to the issue or issues involved in the hearing. All material evidence entered will be noted in the record and numbered. The rules of evidence as applied in civil cases in the circuit court of the state shall be followed

6. Each party has the right to cross examine witnesses who testify and the right to redirect and submit rebuttal evidence

7. Each party may object to improper or irrelevant evidence presented and have their objection ruled upon or noted in the record

8. Each party will be given the opportunity to sum up their position

9. Prior to making a final decision, each party will have an opportunity to present its view of the facts and applicable law in a written statement to the state hearing officer. If submitted either or both parties will be allowed to review the written statements of the adverse party and submit a final written argument on the matter prior to the final decision of the hearing officer

10. Based on proper evidence presented at the hearing and any findings of fact and conclusions of law presented, the state hearing officer will make a final decision

11. A copy of the final order or decision will be served upon each party and attorney in person or by registered or certified mail.

A. Any party requesting a hearing or an appeal from an adverse decision of the Department of Welfare shall bear the necessary and attendant costs of such an appeal or hearing, including costs of transportation, court reporting, production, and copying of documents and all similar costs. Cost for a fact finder or hearing officer shall be borne by the Department of Human Services.

f. Judicial review. -- Any party adversely affected by the final decision may

institute a judicial review by filing a petition in the Circuit Court of Kanawha County or in the circuit court of the county in which the petitioner lives or does business.

**§78-1-3. Procedures to Establish a Day Care Center.**

This is a simplified procedure to follow in establishing and operating a day care center:

a. Preplanning.

Three (3) State agencies share in West Virginia's day care licensing process: The State Fire Marshal's Office; the State Department of Health; and the State Department of Human Services. Each of these agencies has specific licensing requirements, all of which must be met before a license to operate a day care center will be issued.

1. State Department of Human Services, State Licensing Supervisor, Division of Social Services, Room 850, 1900 Washington Street, East, Charleston, West Virginia 25305, Telephone: 348-7980.

Request licensing standards for day care centers.

Procedure:

A. Contact the State Department of Human Services. Ask for a copy of the State Day Care Licensing Requirements for Centers.

B. A licensing specialist will explain the standards and procedures and respond to questions.

C. A licensing specialist will make an on-site evaluation of the building and grounds.

D. A licensing specialist will provide an application form and will assist with the completion of this form.

E. A licensing specialist will monitor and assess the day care program from planning stages through implementation, observing area of compliance and noncompliance and offering constructive consultation.

F. A licensing specialist will make recommendations concerning the day care center.

2. State Fire Marshal's Office, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone: 348-2191.

3. Request fire safety regulations for child care centers.

Procedure:

A. Contact the State Fire Marshal. Request a copy of fire safety standards and an inspection of the proposed facility.

B. A fire safety inspection and evaluation will be made.

C. A fire inspection report will be issued to the applicant and to the Department of Human Services. This report specifies requirements which must be met. The State Fire Marshal's Office will approve the center for opening only after full compliance with fire safety regulations.

D. After the day care center is open, a fire inspector will continue to monitor and evaluate the center's compliance with State fire safety codes and regulations.

E. The State Fire Marshal's Office will list requirements concerning the day care center.

4. State Department of Health, Office of Environmental Health Services, General Environmental Health Division, 1800 Washington Street, East, Charleston, West Virginia 25305. Telephone: 348-2967 or 348-2968.

5. Request child care center regulations, and The Bureau of Nutrition, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone: 348-8870.

6. Request nutrition information for child care centers.

The State Department of Health is concerned with two (2) distinct areas for licensure: sanitation and nutrition.

7. Sanitation.

Procedure:

A. Contact the State Department of Health, Office of Environmental Health Services; ask for a copy of Child Care Center Regulations and instructions for submitting floor plans of the proposed facility.

B. Submit floor plans to the State Department of Health, Office of Environmental Health Service per instructions.

C. When you have received written approval of the plans from the Office of Environmental Health Services, contact the local/county health department and request that the sanitarian conduct a preopening inspection of the facility after construction or remodeling is completed and all equipment installed. All area of noncompliance noted during the inspection must be corrected before the center will be issued a permit to operate by the county health department. One (1) or more inspections may be necessary.

D. The sanitarian will submit a copy of the inspection report to the State Department of Health, Office of Environmental Health Services for review. The Department of Human Services must receive written approval of the facility from the Office of Environmental Health Services before considering the licensure of the day care center.

E. After the day care center is open, the local sanitarian will conduct routine

inspections to assure continued compliance with applicable regulations.

F. The Office of Environmental Health Services will make recommendations to the Department of Human Services based on these inspection reports.

8. Nutrition.

Procedure:

A. Contact the state nutritionist. Ask for assistance in menu-planning for the day care center.

B. An area nutritionist will offer helpful suggestions about planning and preparing economical and nutritious meals and snacks.

C. An area nutritionist will provide ongoing consultation to the day care center.

D. The state nutritionist will monitor and assess menus, meals and snacks, making recommendations concerning the day care center.

9. Responsibilities of the licensing representative.

Visits. -- Your licensing representative may make announced or unannounced visits to a day care center. These will include the site planning sessions prior to licensing, post-licensing visits after the issuance of the license, and other inspection, supervisory and consultative visits.

b. Opening a new day care center.

What type of care already exists in the community?

How many are already operating?

What ages are served - infants, toddlers, preschool, school-aged, combinations?

What age group seems to most need care?

Is there a waiting list?

Do any programs have unfilled spaces?

What hours are the centers open?

How many days a week?

Fees being charged?

Do they offer night or evening care?

Where are they located?

Is there a need for more centers in the same area?

Is there a need for a child care center in the area you have chosen? Conduct a survey:

Door-to-door

Person-to-person

Telephone

Newspaper advertising

Public distribution of brochures, questionnaires, posters.

Contact the local day care information and referral agency, United Way Planning Office, town or city planning office, U. S. Census Bureau, information office of school systems for school census data.

Number of families in your community.

Number of working families with children zero (0) to six (6) years, seven (7) to fourteen (14) years.

Geographic concentration of families with children.

Income distribution of families.

There is transportation to and from the area. Will you be expected to provide transportation?

There is a traffic pattern which makes your site accessible to families; yet the center itself is buffered from heavy traffic, noise and pollution.

There is acceptance of the idea of having a child care center in the neighborhood. Will people object to increased traffic, activity and noise?

There are zoning and land-use ordinances that must be complied with.

There is a long-term lease available if you plan to rent, and the lease permits renovations and alterations, at your own or owner's expense, in order to meet State licensing requirements.

There is room for expansion in the future if you wish.

There is enough money available to finance costs, upkeep and maintenance before you achieve full enrollment and before you realize a return on your investment. (Sufficient operating funds (reserves, guarantees of a loan or funds, fees) shall be available at all times to assure at least one (1) year or six (6) months of operation.)

There are people available for staffing the center who meet licensing requirements.

**§78-1-4. Day Care Center Program and Staff Requirements.**

Staff requirements.

- a. Facility administration.

1. Regulation. -- A day care facility shall have written policies covering the following area:

A. The type of service to be offered to children served;

B. Admission requirements and enrollment procedure;

C. Fees charged and plan for payment;

D. Liability insurance coverage;

E. Provision for special needs of individual children;

F. Transportation arrangement, when provided by the facility; and

G. Permission by parent(s) or guardian(s) for trips outside the day care facility.

Compliance requirements. -- Written policies shall be available, discussed with each staff member, and with parents at the time of enrollment of the child.

2. Regulation. -- A day care facility shall have information and instructions from the parents to enable the staff to make decisions or act on behalf of the child.

Compliance requirements. -- Records shall be maintained, updated and available for inspection by the licensing specialist. Records, including facts learned about children and their relatives, shall be kept confidential by the facility and the Department of Human Services. Confidentiality release forms shall be signed by the parent(s) prior to release of information to any other individual, agency, or organization.

All program and staffing requirements outlined here are established for all day care facilities.

Records shall cover:

A. The child's name, birthdate, address;

B. The parent(s) or guardian(s) name, home and business address and telephone number;

C. Names, addresses and telephone numbers of persons who can assume responsibility for the child if the parent(s) or guardian(s) cannot be reached in an emergency;

D. Names, addresses and telephone numbers of persons authorized to take the child from the day care facility;

E. Health and developmental information concerning the child, including current reports of physical examinations, immunizations and lists of allergies, if any;

F. Name, address and telephone number of the doctor who should be contacted in case of a medical emergency;

G. Parent(s) or guardian(s) signed permission for emergency medical service;

H. Daily attendance; and

I. Fee charged.

3. Regulation. -- The admission policies and procedures of a day care facility shall be nondiscriminatory in regard to race, color, creed, religion, sex, national origin, handicap, and age or marital status of parents.

Compliance requirements. -- The written admission policies shall include a statement that the facility is operated on a nondiscriminatory basis, and the practice of this policy is demonstrated through equal treatment in regard to race, color, creed, region, sex, national origin, handicap, and age or marital status of parents.

4. Regulation. -- The admission policies and procedures of a day care facility shall be established to aid the child in the day care experience.

Compliance requirements.

A. Parent(s) or guardian(s) and child shall have a preadmission visit to the facility in order to prepare the child for the day care experience.

B. Parents and the director or designated staff member shall have a preadmission conference to discuss the child's developmental history, personal characteristics and special needs. Pertinent information affecting the child's health, safety and well being shall be shared with the staff working with the child.

C. Parents and the facility operator shall agree on fees, expectation, program and policies, prior to the admission of the child.

D. Parents shall furnish health records within thirty (30) days after the admission of the child. Emergency releases and immunization plan shall be furnished prior to the child's admission.

E. Parents shall complete and submit an application for the day care services prior to the admission of the child.

5. Regulation. -- A day care facility shall supplement and reinforce the parent's positive child-rearing efforts.

Compliance requirements.

A. Parents shall be encouraged to visit the facility, observe and participate in the care of their children.

B. Concerns about health, development or behavior of any child shall be communicated to the parent promptly and directly.

C. At the time of enrollment and thereafter as the need arises, a staff member shall discuss with each parent the child's habits, activities and schedules at home and at the day care center.

D. Parents and staff shall prepare a child for discharge from the day care facility in a manner that is least distressing to the child.

Recommended practices. -- Planning for the child should be shared by the parent and the day care center.

#### 6. Suggestions:

A. Day care facilities with boards of directors should include as board members at least two (2) parents of children served at the center. Facilities without boards of directors should have a parent advisory committee, which meets three (3) or more times a year.

B. Parents and staff should have at least three (3) meetings a year to discuss common concerns.

C. Parents should be encouraged to visit the day care facility and to contribute skills to the program.

D. Parents should be encouraged to talk with the staff about the child on a daily or weekly basis.

7. Regulation. -- When transportation is provided on a regular basis by a day care facility, directly or through contract, the facility shall be responsible for the health, safety and welfare of the children. Transportation is provided on a regular basis when children are transported once a month or more.

#### Compliance requirements.

A. The driver of the vehicle transporting the children shall be at least eighteen (18) years of age and not more than sixty-five (65) years of age, unless certified for the job by a

physician, and shall meet the personal and health qualification of other staff.

B. The driver of the vehicle shall hold an appropriate license to transport children as required by the State Department of Motor Vehicles.

C. The driver shall not leave the vehicle unattended while there are children in it.

D. The driver shall see that:

(i) The vehicle is not overcrowded.

(ii) Doors remain locked and no child stands in the vehicle while it is moving.

(iii) Good order is maintained for the safety of the children.

(iv) A responsible person delivers the child to the vehicle and meets the child when he is returned home. No child shall be left unattended.

E. The driver shall have knowledge of first aid or shall have an aide trained in first aid. There shall be an equipped first aid kit on the vehicle. (See D-3)

F. The driver shall maintain the vehicle in safe running condition at all times.

G. The driver shall conform to State vehicular laws, rules and regulations.

H. The driver shall operate the vehicle only if the vehicle used transporting children is insured against liability.

I. The driver shall insure that all children age five (5) and under are protected by an age appropriate safety apparatus.

(i) A car bed or car seat which meets the federal motor vehicle safety standards shall be used for all children under age three (3).

(ii) A seat belt shall be sufficient for children between ages of three (3) and five (5).

(iii) No child shall share safety apparatus with another child.

Recommended practices. -- The driver should be accompanied by an attendant if there are more than six (6) children on the vehicle.

Each child age six (6) and above should be protected by a seat belt.

b. Program.

1. Regulation. -- The program conducted in a day care facility shall provide: Experiences which promote the individual child's physical, emotional, social and intellectual growth and well-being.

Both active and passive learning experiences which promote the development of skills, social competence, self-esteem and positive self-identity.

Compliance requirements.

A. Provide a variety of games, toys, books, crafts and other material sufficient to allow a child a choice of materials.

B. Provide a written schedule of daily activities, with a reasonable routine for meals, snacks, sleep, nap-time and indoor and outdoor play.

C. Provide a designated area where the child can sit quietly or lie down to rest. There shall be a nap period for at least one (1) hour for the children who need it and, for the children unable to sleep, time and space for the rest and quiet play shall be available. Sleep and rest periods shall be under adult supervision at all times.

D. Provide the children with freedom to go to the toilet and to get a drink of water as they feel the need.

E. Provide activities indoors and outdoors which allow the children to make use of both large and small muscles. Provide experiences and equipment appropriate to the age and stage of development of the individual child.

G. Provide one (1) hour of outdoor play daily, weather permitting, in all seasons of the year.

H. Provide a balance of quiet and active, group and individual activities with sufficient flexibility to respond to the needs of the individual children.

I. Provide for individual self-expression in conversation, imaginative play and creativity.

J. Provide for running, climbing and other vigorous physical activities.

K. Provide learning experiences regarding the value of food in relation to growth and development.

L. Provide field trip visits to places of interest in the community.

M. Provide opportunities for the child to participate in such activities as preparing for meals, taking out and putting away materials and caring for his own clothing and bedding.

N. Provide respect for each child as an individual, allowing for choice of activities and interests.

O. Provide a variety of social experiences. Grouping arrangements shall take into account the child's level of maturity. Mixed-age experience shall also be provided.

P. Provide for the cultural diversity of the children by incorporating their

language, food, celebrations, and life styles in the program.

2. Regulation. -- The children's behavior shall be enhanced by positive guidance, redirection and the setting of clear-cut limits which foster the child's own ability to be self-disciplined.

Staff shall not use spanking or other forms of corporal punishment.

Compliance requirements.

A. Children shall be disciplined with kindness and understanding.

B. Staff shall use disciplinary measures designed and carried out in such a way as to help individual children develop self-control and to assume responsibility for their own acts.

C. Simple, understandable rules shall be established for both children and staff. These rules shall set the limits of behavior required for the protection of the group and individuals within it.

D. Discipline shall be developmentally related and shall not be out of proportion to the particular inappropriate behavior.

E. Discipline shall be related to the child's act, handled without bias and without prolonged delay on the part of the adult involved so the child is aware of the relationship between acts and consequences.

F. Discipline shall be delegated to persons who have ongoing relationship with a child.

G. Removal from the group as a means of helping a child gain control shall be for reasonable periods of time. When possible, children should help set time limits.

H. Behavior problems shall be treated individually and privately. If there is an assessment of the child's pattern of unacceptable behavior, the entire staff should be aware of it and cooperate in carrying out the specific plan developed for the child.

I. Staff shall not use punishment which is humiliating, shaming, frightening or otherwise physically or emotionally damaging to children. Punishment shall not be associated with food, rest, toileting (training), isolation for illness, or excessive exercise.

3. Regulation. -- A day care facility shall have sufficient indoor and outdoor space and equipment in relationship to the number and ages of children in care to provide for the reasonable comfort and convenience of children, staff and parents.

A. There shall be at least thirty-five (35) square feet of indoor activities space per child available (exclusive of bathrooms, halls, kitchen, storage places, exit passages, fire escapes, laundry and furnace rooms and cabinet and stationary equipment areas).

B. There shall be at least seventy-five (75) square feet of outdoor play space per child. Where outdoor area is limited, groups may be scheduled on playground in order to maintain the established minimum of seventy-five (75) square feet per child. There shall be an enclosure surrounding the play area that is at least three (3) feet high, and the enclosure material shall be safe for children. Use of a nearby playground shall be permitted provided that it has a safe access for children and provided that it is enclosed and adequately equipped.

C. There shall be equipment in sufficient quantity to allow at least two (2) outdoor play experiences for each child.

D. There shall be at least one (1) hand-washing basin and one flush toilet for every fifteen (15) children.

E. There shall be an individual cot and sheet or bottom covering for each child two (2) to six (6) years of age. A blanket or top covering also be available for each child, and used as needed. There shall be two (2) feet of space from cot to cot, and an aisle of at least two (2) feet between rows of cots.

F. There shall be a telephone in the day care facility.

4. Regulation. -- The amount and variety of materials and equipment available and its arrangement and use, shall be appropriate to the developmental needs of the children in care.

Compliance requirements.

A. Provide materials and equipment of sufficient quantity so that children may make choices in what they want to do or play.

B. Provide orderly storage of materials for children's use, arranged so that children may select, remove and replace them either independently or with assistance.

C. Provide furniture that is safe, durable, child-size and appropriate for the age level of the children.

D. Provide basic equipment that includes building materials, wheel toys, dramatic play materials, manipulative play materials, creative materials, reading materials, music material, climbing apparatus and the like.

E. Provide for immediate removal of broken or unsafe equipment.

F. Radio and television shall be used only when they supplement and enhance the daily plan as learning experiences.

5. Regulation. -- A day care facility serving school-age children shall provide a program that is designed to complement and supplement the child's experiences at home and in school.

Compliance requirements.

A. Opportunities for active play, for learning skills, for rest, for group discussion and for intellectual, physical, social and emotional development shall be provided, appropriate to the age, interests and capabilities of the individual child.

B. Qualified and sufficient staff shall be available to provide special attention to the school-age child.

6. Regulation. -- A day care facility offering night care shall provide program modifications for the special needs of children during the night.

Compliance requirements.

A. When possible, children are left for care and picked up before and after their normal sleeping period so that there is minimal disturbance of the child during sleep. However, no child shall remain in care for twenty-four (24) hour periods.

B. A selection of toys for quiet activities which can be used with minimum adult supervision shall be available.

C. Bathing facilities shall be provided.

D. Comfortable beds or cots, complete bedding and night clothes shall be available.

E. Sufficient staff shall be available to assist children during eating and prebedtime hours and during the morning period when dressing.

F. During sleeping hours, staff shall be in the same room with the children and shall be awake in order to provide for the needs of children and respond to an emergency.

7. Regulation. -- A day care facility serving "Drop-In" children shall provide a program that reflects the special needs of those children.

Compliance requirements.

A. Sufficient personnel shall be available to effectively handle admission records, irregular check-in and check-out times and explanation of policies including financial arrangements.

B. Children displaying unusual anxiety symptoms shall be given special consideration.

C. "Drop-Ins" shall be counted in the total daily enrollment and at no time shall the center exceed the number of children for which it is licensed.

8. Regulation. -- A day camp serving the same group or groups of children for more than thirty (30) consecutive days shall provide a creative, recreational, and educational opportunity in group activity in the out-of-doors which contributes to each child's mental, physical, emotional and social growth.

A. The director shall be knowledgeable in camp administrative practices and have not less than one season of leadership experience in an organized children's camp or related activity.

B. Hazardous camp activities such as aquatics, archery, horseback riding and riflery shall be conducted by a qualified adult activity specialist capable of implementing established safety standards.

(i) An aquatics supervisor for swimming programs shall be currently certified as an American Red Cross Water Safety instructor, YMCA Aquatics instructor, or a Boy Scout of America national aquatics instructor.

(ii) The aquatics supervisor in any camp who supervise swimming programs shall be currently certified as an American Red Cross senior lifesaver, a YMCA senior lifesaver, or a Boy Scout of America lifeguard.

(iii) Lifesaving equipment, which shall include but not be limited to a bell or whistle, two (2) assist poles and a ring buoy, shall be provided at a swimming area and placed so it is immediately available in case of an emergency.

C. Written emergency procedures shall be provided at a camp for fire, tornado, serious accident, illness or injury and a lost camper. Each member of the staff shall be informed of his duties in case of an emergency.

D. A change in camp locations, dates of operation or cancellation shall be reported to the Department of Human Services prior to the change.

E. The camp shall offer opportunities for children to develop an appreciation and understanding of their natural environment. Activities shall be provided which are conducive to the learning of skills, increase of knowledge, improvement of health and development of character as part of the day camp experience.

F. Children under the age of two (2) years shall not attend day camps.

c. Staffing.

1. Regulation. -- A day care facility shall have sufficient staff to provide continuous supervision (with provision to respond to an emergency), to offer individual attention to children and interact with children for the benefit of the children's physical, social, emotional and intellectual well-being.

Compliance requirements.

Ratios of day care staff to children shall be maintained as follows:

CHILDREN'S AGE	STAFF
2-3 years	1 adult - 8 children
3-4 years	1 adult - 10 children
4-5 years	1 adult - 12 children
5-6 years	1 adult - 15 children
School Age	1 adult - 16 children

The staff ratio shall be maintained at all times and at least two (2) responsible adults shall be at the facility at all times. During nap time, one adult may supervise each room of sleeping children as long as all other staff needed to meet ratios remain at the facility in order to respond to emergencies. Whenever a staff member is engaged in bookkeeping, cooking or other maintenance duties, he/she may not be counted as part of the staff-child ratio.

2. Regulation. -- A day care facility shall have on its staff individuals with the skill and competency necessary to contribute to each child's physical, intellectual, emotional and social development.

One paid adult staff member may work alone when six (6) or less children are present.

Compliance requirements.

A. Each staff member shall:

- (i) Be able to read and write.
- (ii) Be able to carry out a program emphasizing child development.
- (iii) Be able to provide evidence that he or she meets the health requirements set forth in the health and sanitation section.
- (iv) Be able to work with children without recourse to physical or emotional punishment.
- (v) Be able to praise and encourage children and provide them with a

variety of learning and social experiences appropriate to the age of the children served.

(vi) Be able to communicate with parents and children.

(vii) Be able to recognize and act against hazards to physical safety and mental health.

(viii) Be able and willing to increase skills and competence through experience, training and supervision.

(ix) Be able to demonstrate dependability, patience, maturity of judgment, warmth, flexibility and understanding.

B. Each teacher of a day care facility shall:

(i) Be at least eighteen (18) years of age.

(ii) Have at least a high school education or certified equivalency.

(iii) Be able to plan and carry out a program emphasizing child development.

C. Each teacher-aide of a day care facility shall:

(i) Be at least eighteen (18) years of age, if full time. Part-time teacher aides, under age sixteen (16), shall obtain a work permit from the County Board of Education. All part-time teacher aides shall work only under the direct supervision of a full-time day care teacher.

(ii) Be able to assist teachers in program and activities.

(iii) Be able to supervise children's play as directed.

(iv) Be able to prepare equipment and supplies for group activities.

(v) Be able to interact with children who require special attention.

(vi) Be able to watch over sleeping children.

(vii) Be able to serve meals and snacks.

D. Each day care center utilizing volunteer services shall:

(i) Provide orientation training and supervision.

(ii) Maintain a current record including written references and health report from an examining physician on each volunteer working directly with children or in food preparation and/or serving.

A volunteer shall not be used to meet staff ratios except in instances of staff illness or emergency. However, under unusual circumstances, day care licensing staff may approve a volunteer in staff-child ratios when the volunteer meets at least the requirements of a teacher-aide and serves the center at least two (2) hours daily on a regular basis.

3. Regulation. -- The operator and/or director of a day care facility shall have the skills necessary to manage a day care facility, the ability to relate effectively to parents and community, the ability to plan and conduct regular staff meetings and to provide staff training, and the ability and willingness to provide a child care program which meets the standards set forth in these requirements.

Compliance requirements.

The operator/director of a day care facility shall:

A. Be at least twenty-one (21) years old.

B. Have a high school education plus nine (9) college credits in early childhood development or related field. A Child Development Associate credential may be substituted for the college credit. Directors employed prior to the promulgation of this rule shall have twenty-four (24) months to comply with this requirement.

C. Be able to provide evidence of one (1) year work experience in a program for young children. Operator/directors who cannot establish previous working experience with young children shall employ a full-time staff person with one (1) year work experience in a program for young children.

D. Be responsible for providing a child care program and facility which meets the standards set forth in this document.

E. Be responsible for maintaining adequate records on enrollment, attendance, finances, staff and children.

F. Be responsible for submitting reports to the Department of Human Services when requested.

G. Be responsible for screening, scheduling and supervising the conduct of any staff, volunteers or others who provide services in the facility.

H. Be responsible for cooperating with the licensing specialists and other appropriate agencies in efforts to maintain or improve the quality of care and competence of staff.

I. Be responsible for keeping the Department of Human Services advised of changes in ownership, directorship and facilities.

J. Be responsible for planning and/or conducting regular staff meetings, at least once a month, and assuring adequate supervision of the children if meetings are held during regular operating hours.

K. Be responsible for staff training and attendance at workshops and programs related to early childhood development, at least twice a year.

L. Be responsible for admissions, recruitment and public relations.

M. Be responsible for informing parents and other interested persons about the goals, policies and content of the day care program offered by the facility.

N. Be responsible for parent-teacher conferences, at least twice a year.

O. Be responsible for reporting suspected child abuse or neglect to the local Department of Human Services.

P. Be responsible for keeping the following information on file: number of staff and children at the facility each month, a profile of the children served ages, special needs, handicaps, etc., brief description of program and facility. This information will be collected by the Department of Human Services for the annual report and directory.

4. Regulation. -- A day care facility shall have information about staff members prior to employment and shall update such information as appropriate after employment. No individual who has been convicted of child abuse, neglect or sexual abuse, or is awaiting hearing on such charges, shall be employed or retained in the day care facility.

Compliance requirements. -- Records shall be maintained and kept current on all staff members of the day care facility, full-time, part-time and regular volunteer(s). These records shall be open for inspection, as required, to the day care licensing staff. Records shall be kept confidential by both the facility and the Department of Human Services. Such records shall include:

A. Name, address, telephone number, birthdate.

B. Name, address, telephone number of an individual who should be contacted in case of an emergency.

C. Qualifications for employment, include:

(i) Education;

(ii) Training in relation to early childhood development;

(iii) Past employment;

(iv) Experience with children;  
and

(v) Written response from two (2) references, personal and employment, if applicable.

D. Current health information, including a complete physical examination prior to employment and a physical examination every two (2) years thereafter.

E. Date of current employment.

5. Regulation. -- In choosing an appropriate staff, the day care facility shall provide job descriptions and shall have clearly defined personnel policies.

At the same time of application for a license to operate a day care facility or at the time of application for renewal of license to operate a day care facility, job descriptions and personnel policies shall be submitted to the Department of Human Services.

Compliance requirements. -- An individual job description for each staff position shall include the following information:

A. Position title.

B. Position qualifications.

C. Position duties and responsibilities.

Personnel policies of the day care facility shall include the following information:

A. Length of work day and work week

B. Sick leave provisions

C. Vacation time and paid holidays

D. Fringe benefits

E. Probationary periods and tenure provisions

F. Health and medical requirements

G. Staff meetings and staff training

H. Termination procedures

I. Annual staff evaluation

6. Regulation. -- Training in a day care facility is essential to all who work with children and all who have an interest in their welfare. The day care staff needs to understand through a knowledge of child growth and development that children develop differently; that children have rights as individuals; that children need to experience pleasure in activities with others; that children need a routine; that parents are important to children; and that the customs and cultures of children shall be respected.

Compliance requirements.

The responsibility for staff training rests with the director who shall:

A. Require each staff member to read and become familiar with day care licensing standards and requirements.

B. Have regular in-service staff training at the day care facility, or in workshops and training programs at the facility or away from the facility.

d. Health, nutrition and safety.

1. Regulation. -- Evidence of the general state of each child's health, presented by the child's parent or guardian upon admission and every two (2) years thereafter to the day care facility, shall be maintained by the day care operator and kept up-to-date. If medical problems are suspected at any other time, the director may request additional medical examinations.

Compliance requirements.

A. A current written statement from a physician describing the child's health status, indicating any unusual condition of which the staff must be aware.

B. A record of immunizations, signed by a physician or by a public health official, on file at the facility for each child in day care. Immunizations shall include rubella, measles, whooping cough, diphtheria, tetanus, poliomyelitis, tine test and other designated by the West Virginia Department of Health. If immunizations are not complete at the time of the child's admission, a written plan for completion, signed by a physician or public health official, should be on file. Immunizations shall be completed in accordance with the written plan.

C. A day care center shall not require a child in care to receive any medical treatment when the parent(s) or guardian(s) of the child or the child object to such treatment on the grounds that it conflicts with the tenets and practice of a recognized church or religious denomination of which the parent(s) or guardian or child is adherent. In potentially life threatening

situations, the center shall refer the child's care to appropriate medical and legal authorities.

2. Regulations. -- The day care facility shall be prepared to respond quickly and appropriately to sudden illnesses or accidents.

Compliance requirements.

A. All adult members shall receive a minimum eight (8) hours training in principles of first aid and at least one shall be on the premises at all times when children are in attendance.

B. In-service training by qualified medical personnel for all day care staff shall include discussion of illness and symptom observation and evaluation.

3. Regulation. -- All day care programs shall take health and safety precautions within the facility.

Compliance requirements.

A. Arrange for parent(s), guardian(s) and/or staff to sign in/out each child daily.

B. Establish and post a disaster plan for fire, storms and other emergencies, in accordance with policy suggestions from the State Fire Marshal, the Red Cross and/or other community sources.

C. Conduct fire safety drills twice (2) a month and keep a written record of the drills.

D. Maintain a current emergency card file accessible to all staff members and portable for trips off premises.

E. Arrange for a staff member to accompany and to remain with a child during emergency care or treatment until parent(s) or guardian(s) arrive, and provide substitute coverage for the other children at the facility.

F. Notify parent(s) or guardian(s) immediately of illness or injury to the child.

G. Arrange with a physician or other health source for emergency treatment of a sick or injured child.

H. Record accidents, illnesses or injuries and file in the child's folder.

I. Keep on hand an equipped first aid kit for every twenty (20) children. A first aid kit must be taken by staff on all trips away from the facility. This kit shall include: soap, antiseptic, bandaids, sterile gauze pads, adhesive tape, tweezers and scissors.

J. Observe each child daily for symptoms of illness or injury.

K. Separate from the group any child who becomes ill or who is suspected of illness. The child must be under the supervision of an adult at all times.

L. Remove a sick child from the facility as soon as possible if his illness is communicable or the facility is unable to properly care for his needs.

M. Give the child medication only by request of and written permission from parent(s) or guardian(s).

N. Administer prescriptive medication only from the original bottle and with a current prescription from a physician.

O. Carry liability insurance to protect the child, the staff and the facility in case of accident.

4. Regulation. -- Operators of day care facilities shall ensure that the day care program and premises minimize the risk of accidental injury.

Compliance requirements.

A. Day care activities and premises do not expose children to situations which may be hazardous to the particular age or capacity of the child.

(i) Electrical cords shall be insulated and in good repair.

(ii) Electrical cords shall be unplugged when not in use.

(iii) Electrical outlets within reach of children shall be protected by a shield when not in use.

(iv) Electrical appliances, such as hot plates and coffee pots, shall not be stationed in children's areas. An appliance may be used for program under adult supervision, but must be removed from the children's areas immediately after use.

(v) Hot plates and radiators shall be shielded.

(vi) No space or open flame heaters shall be used without prior approval by the State Fire Marshal's Office.

(vii) Approved floor coverings shall be firmly anchored.

(viii) Doors shall close properly and all fire doors shall be kept closed at all times.

(ix) All lead paint shall be removed from the premises.

(x) Venetian blind cords, and other hanging cords, shall be tied above the reach of children.

(xi) Table cloths and other hanging items which can be pulled by children shall not be used.

(xii) Small items which can be swallowed shall not be accessible to children.

(xiii) Household cleansers, chemicals and medicines shall be out of reach of children and locked in a cabinet, and kept away from foodstuff.

(xiv) Lock tops shall be on all medications.

(xv) Containers originally designed for edibles shall not be used for the storage of toxic or medicinal medications.

(xvi) When off premises, children shall be kept in a group with sufficient staff to maintain staff-child ratios, but no less than two (2) staff per group. Children shall be taught to hold hands, stay in a line or to hold to a safety rope.

5. Regulation. -- When children with special needs are admitted to a day care facility, there shall be provisions to meet those needs. "Special Needs" refer to a wide range of physical, mental or emotional conditions which affect the child's immediate social and physical adjustment and long range personal development. Examples include:

Speech, visual and hearing deficiencies;

Mental retardation;

Behavioral/emotional disturbances;

Heart or lung ailments;

Diabetes;

Allergies; and

Motor disturbances or paralysis.

Day Care Centers for Mentally Retarded Children shall follow guidelines established by the State Department of Health, as well as these Licensing Standards.

Compliance requirements.

A. When children with special needs are admitted, the responsible individual consults with the child's parents, the child's source of professional health care or, where appropriate health consultants.

B. The appropriate staff of the facility receives instructions related to the nature of the disability, the child's potential for growth and development, his adjustment to the facility program and prescriptive plans to foster his development.

C. Where the nature of the special need or the number of children with special needs necessitates added care, sufficient staff and equipment are supplied to cover these needs.

6. Regulation. -- There shall be dental health programs designed to effect good oral hygiene, education and practice.

A. The day care facility shall utilize dental health consultation.

B. Children shall be provided appropriate opportunities for supervised practice of brushing teeth.

C. Oral hygiene concepts shall be a part of in-service training programs.

7. Regulation. -- All day care facilities shall provide meals and snacks of a quantity and quality to supplement food served at home so that the daily nutritional needs of the child are met. Cultural and ethnic food appropriate to the children in the program and locality shall be part of the meal planning.

Compliance requirements.

A. All day care facilities shall consult with a nutritionist from the Bureau of Nutrition, West Virginia Department of Health, regarding compliance with nutrition standards.

B. Children who are at the day care facility for four (4) hours or more shall be served a quantity of food which will supply at least one-third (1/3) of the National Research Council's current recommended dietary allowances. Children in the day care program for more than eight (8) hours shall receive a quantity of food that will supply one-half (1/2) to two-thirds (2/3) of the recommended dietary allowances, depending upon the portion of the day they are cared for.

C. At least one (1) meal a day at the day care facility shall be a hot meal. Exceptions to the hot meal requirement can be made for special occasions. Snacks shall be served in mid-morning and mid-afternoon. For children who are served breakfast at the facility, the mid-morning snack may be eliminated.

D. Menus for all foods served, including snacks, shall be written for a minimum of one (1) week in advance and posted for parents to see.

E. Written menus as planned shall be followed and any changes deemed necessary shall be written on the menus.

F. Menus shall be dated, readily available to the food service staff and kept on file for a minimum of two (2) months.

G. Food allergies and other allergies shall be posted in an easily observable location. Food allergies of specific children shall be known by the cook, staff members and substitute staff members having direct contact with these children.

H. Children shall be encouraged, but not forced to eat.

I. The staff shall eat with the children and shall eat the same food as the children unless on a medically prescribed diet. (Not applicable for infant care)

J. The children shall be seated family style to allow for socialization.

8. Regulation. -- Drinking water shall be freely available to children of all ages.

Compliance requirements.

A. The facility has potable water available to all children and the staff.

B. Children shall take a drink of water whenever they feel the need.

C. Drinking fountains, if provided, shall be at the ratio of one (1) per each forty (40) children.

D. Drinking cups shall be single service and dispensed from an approved sanitary dispenser. Glasses may also be used, if washed and sanitized after each use.

9. Regulation. -- Personal Health of Staff. Evidence shall be maintained at the day care facility that the staff are free from mental and physical health problems which may adversely affect their performance with children.

Compliance requirements.

A. Written evidence shall be on file in the facility regarding preemployment physical examination of each adult employed. Physical examination reports shall be completed every two (2) years thereafter.

B. Written evidence shall be on file in the facility attesting that each adult is free from communicable tuberculosis as a result of a negative tuberculin test or a satisfactory chest x-ray taken within six (6) months prior to employment. Such tests shall be repeated every two (2) years.

C. There shall be health records on all personnel, including:

(i) Current reports from a physician or health agency on the physical and emotional status of each staff member and regular volunteer; and

(ii) A record of accidents and sick leave of each staff member and regular volunteer.

D. All part-time staff shall be required to meet the health requirements of full-time staff.

E. All regular volunteers shall be subject to the same health requirements as are applicable to paid staff members.

F. There shall be provision for substitution for staff who are too ill to function effectively or who present a serious health hazard to others in the facility.

e. Developmental needs of the children.

Regulation. -- There shall be staff interaction with children in a personal way in order to further stimulate physical, intellectual, emotional and social growth.

Compliance requirements.

1. There shall be frequent positive verbal communication between staff and children.

2. There shall be eye-to-eye contact with the children.

3. There shall be immediate attention to the physical needs of children. No crying shall be ignored and no child shall be routinely left on a cot except for rest or sleep.

4. There shall be an opportunity for each child to identify regularly with one adult staff member who is able to provide reassurance and consolation and establish and maintain behavior limits.

f. Relocation, renovation, enlarging, building of day care facilities.

Regulation. -- No person shall construct a building or structure to be used as a child care facility, or extend, alter or modify any structure used as a child care facility without first making written application to the State Department of Health and the State Fire Marshal's Office.

Construction, extension, alteration or modifications shall not commence until a letter of review or inspection report has been obtained for such purpose from these agencies. Plans shall also be submitted to the State Department of Human Services.

Facilities moving to a new location shall be evaluated by the State Department of Health, the State Fire Marshal and the State Department of Human Services to assure continued compliance with licensing requirements, and such facilities will not be acceptable until evaluated and approved. Thirty (30) days notice shall be given the Department of Human Services prior to relocating and a new application shall be submitted for the operation of a day care facility planned in the new location.

#### **§78-1-5. Supplemental Infant - Toddler Day Care Center Standards.**

An infant-toddler shall be separately licensed. The program may provide care for the children three (3) months to two (2) years old. The procedures to establish an infant-toddler program and the general organization of the program shall follow the same requirements as those for day care facilities serving children two (2) years of age and older. The facility shall meet all requirements of the State Fire Marshal's Office, the State Department of Health and the State Department of Human Services. These are additional and specific regulations for infant-toddler care.

##### 5.1. Admissions.

Admission conferences with parent(s) or guardian(s) and the children's records shall also cover current feeding plans for the child.

##### 5.2. Transportation.

a. The driver shall be accompanied by an attendant if there are children under two (2) years of age.

b. Approved infant safety seats shall be provided.

##### 5.3. Program.

A day care facility serving children three (3) months to two (2) years shall provide an environment which protects the children from physical harm but is not so restrictive as to inhibit physical, intellectual, emotional and social development.

a. There shall be a waking time crawl space of twenty-five (25) square feet per infant and waking time play area of thirty-five (35) square feet per toddler.

b. There shall be an indoor area protected from general walkways within the facility where crawling children can be on the floor at least part of the day to explore.

c. There shall be sleeping equipment provided, including cribs for infants who have not yet begun to climb, and low cots provided for other children, with sheets and blankets. Bars on cribs shall be close enough to prevent a child's head from getting caught between the bars. (Federal regulations two and three-eighths inches (2 3/8") apart) Tiered or stackable cribs are prohibited except in the infant/toddler facilities that received approval for the equipment prior to the promulgation of this rule.

d. There shall be sleeping areas which are buffered from activity areas. Space in the sleeping area shall allow for at least two (2) feet between cribs, beds or cots.

e. There shall be no more than ten (10) children within an activity's area.

f. There shall be low chairs and tables or infant seats with trays provided for table play and meal time for children no longer being held for feeding. High chairs, if used, must have a wide base and safety strap.

g. There shall be comfortable chairs provided for staff to use when feeding, holding or playing with the children.

h. There shall be other areas within the facility as well as out-of-doors where children are taken for a part of each day to provide some change of physical surrounding and social interaction opportunities.

i. There shall be infant seats, strollers and carriages available for outings. Children shall be taken outdoors daily unless it is raining or less than forty (40) degrees Fahrenheit.

j. There shall be crude crafts materials for drawing, cutting and pasting as well as playdough. All materials shall be nontoxic.

k. There shall be infant equipment, such as mobiles, that stimulate eye-hand coordination while the child is in the crib.

l. There shall be storage space for each child's belongings, including personal toilet articles (such as comb, toothbrush, washcloth, towel).

m. There shall be clean clothing changes for each child.

n. There shall be coordination of the day care program so that the same outdoor areas are not used simultaneously by older children when infants are crawling and toddlers are playing. Unless adults are supervising on a one-to-one basis, infants and toddlers shall use only equipment of appropriate size.

#### 5.4. Staffing.

#### a. Staff Ratios:

Ratios of day care staff to children shall be maintained at all times as follows:

##### Children's Age Staff

3 months - 2 years 1 adult - 4 children.

#### b. Staff Members:

1. Each staff member shall provide written references of previous successful experience(s) in working with young children, as an employee or volunteer.

2. Each staff member shall present evidence of a negative tuberculin test taken within thirty (30) days prior to employment by the care facility and every two (2) years thereafter.

#### 5.5. Staff training.

A day care facility serving infants and toddlers shall provide a minimum of one (1) week of staff training before the center will be approved for licensing and shall provide in-service training at least three (3) times a year.

#### 5.6. Health.

A day care facility serving infants and/or toddlers shall:

a. Advise parent(s) or guardian(s) at the time of the child's enrollment of the center's health policies in respect to feeding, clothing, bathing and diaper-changing; the care of diapers, bed linen and training chairs; and the center's special safety precautions.

b. Follow a schedule of health care according to specifications of the State Department of Health:

1. Require the child's physical examination within sixty (60) days after his/her admission to the center.

2. Require immunizations along with physical examinations at the age of four (4) months, six (6) months, twelve (12) months, eighteen (18) months and twenty-four (24) months.

c. Refer children with persistent low-grade infections, or with any form of physical, mental or emotional problem(s), for immediate evaluation as soon as the condition is evident.

d. Maintain an ongoing relationship with a private physician or public clinic for regular and emergency consultation.

e. In addition to general health and safety requirements for all children, other requirements include:

1. A diapering station or shelf shall be adjacent to a sink.

2. An infant shall never be left unsupervised on a raised, unprotected surface.

3. A plastic basin or large sink shall be available for bathing children and cleaned after every use.

4. A fresh diapering surface shall be used for each child. A roll of paper towelling may be installed, or a clean towel, not reusable without laundering.

5. Extra clothing changes supplied by the parent(s) must be clean.

6. If parent(s) supply diapers and are responsible for laundering, soiled diapers and other clothes shall be rinsed immediately, kept separate from every other child's in plastic bags or lined, covered containers and sent home daily.

7. If the facility supplies diapers and is responsible for laundering, soiled diapers shall be rinsed immediately, placed in plastic lined, covered containers and removed daily for washing. The containers shall be cleaned and disinfected daily.

8. If disposable diapers are used, they shall be placed in a container with a tightly fitting lid and disposed of daily.

9. Clean crib linen shall be provided at least daily and when wet or soiled.

10. Staff shall wash hands before and after each diapering and before and after feeding of each child.

11. Potties or training chairs shall be sanitized after each use.

12. All infant-toddler equipment in communal use shall be maintained in a sanitary condition.

13. The nursery temperature may not exceed eighty-five (85) degree in hot weather or be less than sixty-eight (68) degrees Fahrenheit in cold weather.

#### 5.7. Nutrition.

Day care facilities serving infants and toddlers shall feed the children according to written plans from physicians, clinics and parent(s) or guardian(s). The feeding of infants and toddlers shall be given special consideration. Specific requirements include:

a. Information provided by health sources and parent(s) or guardian(s) concerning the child's eating habits, food preferences or special needs shall be considered in day care feeding schedules and menus.

b. Children who cannot feed themselves shall be held or fed in infant seats or high chairs. (If possible, the feeding should be done by a staff person who is familiar to the child and who has been feeding the child regularly.) Children shall not be force-fed.

c. Children unable to hold a bottle shall be held whenever the bottle is given. Bottles should not be propped.

d. Self-feeding shall be encouraged. The child should sit at a table with peers whenever he is mature enough to eat in a social manner.

e. Parent(s) should provide formula. However, the center shall assure that formula, bottles, nipples, and containers comply with the following:

1. Formula shall be prepared at the child's home and placed in an assembled bottle unit prior to being brought to the center.

2. Formula and milk needing refrigeration shall be properly refrigerated. Formula shall not be stored longer than twenty-four (24) hours after opening. It should be labeled as to the contents, date of opening, and the specific child for whom its use is intended.

3. Each bottle and nipple supplied by a parent shall be used for a single feeding only and then returned to the parent.

4. Formula and milk left in a bottle shall be discarded at the end of the day. Bottles should not be left on floors or in playpens to pass from one child to another.

f. Water shall be offered at intervals to infants and toddlers.

5.8. Safety.

A child's environment shall be free of hazards. All precautions required in the regular licensing standards shall be met, as well as the following:

a. Equipment shall be checked to avoid danger of a child's falling.

b. Crib sides shall be secure and high enough to prevent accidents. (See C-3)

c. Cots shall be sturdy and close to the floor.

d. High chairs shall be nontippable.

e. Staircases shall be gated.

f. Children in strollers or carriages shall be harnessed.

g. Small items which can be swallowed shall not be accessible to children.

5.9. Developmental needs of the children.

There shall be staff interaction with children in a personal way in order to further stimulate physical, intellectual and emotional growth. Specific requirements include:

a. There shall be frequent positive verbal communication between staff and children.

b. There shall be eye-to-eye contact with the children.

c. There shall be interaction with infants and young children in order to nurture perception and language development.

d. There shall be physical stimulation for infants and toddlers through being held, rocked and played with, as well as through being dressed, bathed and carried; yet they shall be allowed some opportunities during the day when they can explore and learn on their own. Staff should handle infants in an unhurried manner.

e. There shall be immediate attention to the physical needs of the child. No crying shall be ignored and no child shall be routinely left in a crib or playpen except for sleep or rest.

f. A center shall arrange its staffing pattern so that each child has a primary care giver to provide continuity of care, reassurance and consolation and establish and maintain behavior limits.

5.10. Records.

A center shall maintain a continuing record for children up to twelve (12) months of age in the following areas:

a. Food intake

b. Sleeping patterns

c. Bowel movements

d. Developmental milestones, such as sitting and crawling. This information should be shared with parent(s) or guardian(s) on a frequent and regular basis.

WEST VIRGINIA LEGISLATIVE REGULATIONS

DEPARTMENT OF WELFARE

CHAPTER 9 - 3

SERIES I

1981 AMENDED

RETYPE AND REFILED JANUARY 1, 1983

I N D E X

SERIES I

Section I	Day Care Licensing Information
Section II	Procedures to Establish a Day Care Center
Section III	Day Care Center Program and Staffing Requirements
Section IV	Supplemental Infant/Toddler Day Care Center Standards

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WEST VIRGINIA DEPARTMENT OF WELFARE  
Charleston 25305

Dear Day Care Provider:

Scores of West Virginia children receive care away from their homes for at least part of each day and the quality of this care is significantly important to their growth and development. In the longest and strongest view, today's child reflects tomorrow's adult. As we move toward better day care in West Virginia, the children themselves, if we listen to them, will tell us whether they are getting what they need and whether what they get will sustain them through the years of growing after they have left the day care center.

The standards in this document are the result of a lengthy effort to provide practical, purposeful regulations for child care in day care centers throughout the State. Many people representing a variety of interests have contributed to the development of these standards, recognizing that day care is, now more than ever before, an essential service to children and their families.

The procedure used in assembling this material was as follows:

Ad hoc committees, composed of representatives of child caring groups and professions, were charged with the task of defining needs and responsibilities within the field of service to children requiring daytime care.

Resource people, including State and local licensing representatives day care officials, day care operators, parents and specialists in pediatrics, health, mental health, nutrition, fire protection and other areas, worked on updating and upgrading current standards for child care, reviewing and revising a series of drafts in a series of meetings.

These researchers leaned heavily on Federal guidelines for day care licensing, following a simplified and explicit format of regulations and compliance requirements.

Finally, public meetings were held in Charleston and throughout the State, providing further input from West Virginia citizens particularly operators of licensed day care centers. Some differences in style and content of this document are due to the concerns and suggestions of those who participated in these meetings.

My thanks and appreciation are extended to all who made these standards possible. They represent a major element in the provision of quality day care in West Virginia.

LEON H. GINSBERG  
Commissioner

## WHY DAY CARE LICENSING?

History records the protection of children outside their homes since Colonial "poor laws." These laws shielded dependent or neglected children through their apprenticeship or indenture. The forerunners of present day State Departments of Welfare were State Boards of Charity, which came into being in the 1880's. Inspections of child care institutions were begun at that time on a regular basis.

Toward the end of the 19th century, scandals involving the abuse of children in private child care institutions receiving subsidies from the government caused a public demand for State regulation of those agencies and resulted in the imposition of what were essentially licensing requirements.

The Social Security Act of 1935, with its provisions for Federal aid to states for child welfare services, made possible the development or expansion of child care licensing staff at a state level all across the Nation.

The concerns of the states for the protection of the child in day care has grown tremendously as the need for day care has accelerated since World War II. Today's demand for day care facilities will greatly increase as more and more mothers go to work, which is the trend of the times.

Working parents of young children in day care rely on the safeguards of West Virginia's Child Welfare Law which establishes standards and practices that are preventive and protective by nature. These standards relate to all children, from whatever social or economic circumstances they may come.

Licensing standards are the basic minimum requirements and, as such, are the foundation on which good day care is built. Centers may choose to go above and beyond these standards in meeting the needs of children in a changing society.



WEST VIRGINIA DEPARTMENT OF WELFARE

1900 Washington Street, East

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John D. Rockefeller IV  
Governor

Leon H. Ginsberg, Ph.D.  
Commissioner

*Title 28  
Dept. of Human Services  
Section 1* *Legislative Rules*

Minimum Licensing Requirements for Day Care Centers in West Virginia

*Section 1 General*

1.1 ~~R1.01~~ Scope - These regulations establish the rules and regulations of the West Virginia Department of Welfare governing the requirements for the operation of child caring facilities.

1.2 R1.02 Authority - These regulations are issued under authority of West Virginia Code, Chapter 49, Article 2, Public Welfare Law.

*W.V. Code § 49-2*

1.3 R1.03 Filing Date - These regulations are promulgated on the 30th day of April, 1982, and filed on the 30th day of April, 1982 in the Secretary of State's Office.

1.4 R1.04 Effective Date - These regulations become effective on the First day of June, 1982.

SECTION <sup>2</sup> 1: DAY CARE CENTER LICENSING INFORMATION

2.1 <sup>2</sup> A. Introduction

Throughout history, child care has been shared by the child's parents along with other relatives, friends and domestics. Changing times have added another dimension to the sharing of responsibility for the child's growth and development. This dimension is the day care center.

The day care center represents the community's response to today's need for supplementary child care, providing a group experience for young children whose parents are working, training, learning or have a particular need for the service. Because the early years are critical in a child's life, the day care center must promote the child's physical, mental, emotional and social growth.

In response to a growing demand for quality day care for the very young, the state Department of Welfare will license center programs for infants, beginning at three months. However, no child caring center may keep children under two years old unless specifically licensed to do so according to the conditions designated in this document.

2.2 <sup>2</sup> B. Purpose

These standards are the basis for the licensing of day care facilities for children. The standards do not apply to 24 hour care, but care that is rendered for a portion of the day. Licenses are issued if the standards and applicable rules and regulations are met. The purposes of licensing is to regulate the provision of day care for children so as to assure care,

protection, supervision and the promotion of sound growth and development necessary to the health, safety and welfare of all children.

23 *e.* Development of Standards of Child Care

"The state department shall be responsible for the development of desirable standards for the care of children. To this end, it shall cooperate with, advise and assist all child welfare agencies, including state institutions, which care for neglected, delinquent, or mentally or physically handicapped children, and shall supervise all such agencies. The department, in cooperation with the state department of health and with child welfare agencies, shall formulate and make available standards of child care and services for children, to which all child welfare agencies must conform."<sup>1</sup>

24 *D.* Definitions

*A* *1.* "Child welfare agency" means any agency or facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association or organization, public or private, to receive children for care and maintenance or for placement in residential care facilities, including without limitation, private homes, or any facility that provides care for unmarried mothers and their children."<sup>2</sup>

*B* *2.* "Day care center" means a facility operated by a child welfare agency for the care of seven or more children on a non-residential basis."<sup>3</sup> The term does not apply to:

- Start here*
- 1Public Welfare Law of West Virginia, Chapter 49, Article 2, Section 3
  - 2Public Welfare Law of West Virginia, Chapter 49, Article 1, Section 5
  - 3Public Welfare Law of West Virginia, Chapter 49, Article 2B, Section 2

(a) <sup>2</sup>a kindergarten, preschool or school education program which is operated by a public school or which is accredited by the state department of education, or any other kindergartens, pre-school or school programs which operate with sessions not exceeding four hours per day for any child;

(b) <sup>2</sup>a facility operated for nonresidential care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services or engaging in other business or personal affairs;

(c) <sup>2</sup>summer recreation camps operated for children attending sessions for periods not exceeding thirty days. <sup>4e</sup>

(d) family and in-home day care when fewer than seven children are served.

<sup>2</sup> "State Department" means the state department of welfare. <sup>5e</sup>

## 2.5 <sup>2</sup>E. Types of Day Care Centers

The operation of a day care facility, large or small, is important to its success. Much depends upon the quality of organization, program, staff and structure. There are two types of day care facilities in West Virginia: the voluntary, nonprofit day care center and the proprietary day care center.

<sup>4</sup>Public Welfare Law of West Virginia, Chapter 49, Article 2B, Section 3

<sup>5</sup>Public Welfare Law of West Virginia, Chapter 49, Article 1, Section 5 <sup>2</sup>

\*These facilities, however, are required to meet state fire and health regulations.

*A1.* Voluntary, Nonprofit Day Care Center: This type of facility is operated as a community service without expectation of financial gain. It is responsible to a governing board and is incorporated through the Secretary of State of West Virginia. *It is a requirement that a voluntary, nonprofit day care center shall have a governing board and the board of directors shall have the following responsibilities:*

(a) To submit to the Secretary of State of West Virginia the articles of incorporation (see Section *2.6* ~~I, P~~ for incorporation procedure);

(b) To establish written policies and bylaws;

(c) To finance the center and to maintain an operating budget;

(d) To file with the Department of Welfare the names, addresses, telephone numbers and terms of service of the current officers and board members and to advise the Department of any changes therein;

(e) To hold meetings as often as necessary, with at least four meetings a year;

(f) To keep accurate and up-to-date records of meetings and conduct of business;

(g) To designate a director or operator of the center, with assigned responsibilities; and

(h) To interpret to the community the day care center's purpose and program.

\* *By corporate law, church-sponsored facilities are not authorized to incorporate. However, there shall be an advisory board or governing body for the day care center.*

*B.2.* Proprietary Day Care Center: This type of facility is operated by an individual or group of individuals with the expectation of financial gain. It may be incorporated through the Secretary of State of West Virginia.

*2.6.F.* Incorporating a Center<sup>*7*</sup>

Before applying for a charter, the Articles of Incorporation should be written. These must be submitted to the Secretary of State, who shall provide to the State Department of Welfare a copy of the petition, together with any other information in his possession pertaining to the proposed corporation.

The State Department of Welfare makes a charter study, including an evaluation of the purpose and plan of the organization, the evidence of need of the proposed services and the merits of the proposed corporation.

No charter shall be issued unless the State Department of Welfare shall first certify to the Secretary of State that the investigation has been made and that the issuance of a charter is recommended.

Applications for amendments of any existing charter shall be similarly referred and shall be granted only upon similar approval.

*2.7.G.* License and Approval Requirements

"Any person, corporation, or child welfare agency other than a state agency, which operates a residential child care facility, a child placing agency or a day care center shall have a license. Any residential child care facility, day care center or any child placing agency, operated by the state shall

<sup>7</sup>~~Public Welfare Law, Chapter 49, Article 2, Section 6; Article 3, Section 2~~ *2*

obtain approval of its operations from the commissioner. Such facilities and placing agencies shall maintain the same standards of care applicable to licensed facilities, centers or placing agencies of the same category. *el*

*2.8 H. el* Conditions of Licensure and Approval

*A. el* "A license or approval is effective for a period of two years from the date of issuance, unless revoked or modified to provisional status based on evidence of a failure to comply with the provisions of this article or any rules and regulations promulgated pursuant to this article. The license or approval shall be reinstated upon application to the commissioner and a determination of compliance. The license or approval issued under this article is not transferable and applies only to the facility and its location stated in the application. This license or approval shall be publicly displayed, except foster family homes, foster family group homes and group homes shall be required to display licenses upon request rather than by posting.

*B. el* A provisional license or approval may be issued as (1) An initial license or approval to a new facility which has been unable to demonstrate full compliance because the facility is not fully operational, or (2) A temporary license or approval to an established licensed facility which is temporarily unable to conform to the provisions of this article or the rules and regulations promulgated hereunder. A provisional license or approval shall expire six months from the date of issuance and may be reinstated no

more than two times. The issuance of a provisional license or approval shall be contingent upon the submission to the commissioner of an acceptable plan to overcome identified deficiencies within the period of the provisional license or approval.

*c 3.* The commissioner, as a condition of issuing a license or approval, may (1) Limit the age, sex or type of problems of children allowed admission to a particular facility, (2) Prohibit intake of any children, or (3) Reduce the number of children which the agency or facility operated by the agency is licensed or approved to receive."<sup>9e</sup>

*2.9* *3.* Waivers and Variances to Rules and Regulations

*A 3.* Waivers or variances of rules or regulations may be granted by the commissioner if the health, safety or well-being of a child would not be endangered thereby."<sup>10e</sup>

*B 3.* "Variance" means a declaration that a rule may be accomplished in a manner different from the manner set forth in the rule.

*C 3.* "Waiver" means a declaration that a certain rule is inapplicable in a particular circumstance."<sup>11e</sup>

*2.10* *3.* Application for License or Approval

*A 3.* "Any person or corporation, or any governmental agency intending to act as a child welfare agency shall apply for a license or approval to operate

<sup>9</sup>Public Welfare Law of West Virginia, Chapter 49, Article 2B, Section 6

<sup>10</sup>Public Welfare Law of West Virginia, Chapter 49, Article 2B, Section 7

<sup>11</sup>Public Welfare Law of West Virginia, Chapter 49, Article 2B, Section 2

child care facilities regulated by this article." Applications for license or approval shall be made separately for each child care facility to be licensed or approved.

The commissioner may prescribe forms and reasonable application procedures. Before issuing a license or approval, the commissioner shall investigate the facility, program and persons responsible for the care of children. The investigation shall include, but not be limited to, review of resource need, reputation, character and purposes of applicants, a check of personnel criminal records, if any, and personnel medical records, the financial records of applicants, and consideration of the proposed plan for child care from intake to discharge.

The commissioner shall make a decision on each application within sixty days of its receipt and shall provide to unsuccessful applicants written reasons for the decision."<sup>12e</sup>

Applications for licenses shall be made on forms provided by the state department. Forms shall be completed with all information required or the application will be invalid.

Applications for licenses to operate day care centers must be accompanied by:

(a)<sup>1e</sup> Current fire inspection report by the State Fire Marshal's Office.

(b) <sup>28</sup> Current Health inspection report by the county Department of Health, Division of Sanitation. (Physical Plant Inspection S6-50 and Food Service Inspection SF-1).

(c) <sup>32</sup> Current Nutrition inspection report by the Bureau of Nutrition, State Department of Health.

2.11 <sup>32</sup> Supervision and Consultation Required

"The commissioner shall provide supervision to ascertain compliance with the rules and regulation promulgated pursuant to this article through regular monitoring, visits to facilities, documentation, evaluation and reporting. The commissioner shall consult with applicants, the personnel of child welfare agencies, and children under care to assure the highest quality child care possible. The director of the department of health and the state fire marshal shall cooperate with the commissioner in the administration of the provisions of this article by providing such reports and assistance as may be requested by the commissioner." <sup>132</sup>

2.12 <sup>32</sup> Investigating Authority

"The commissioner shall enforce the provisions of this article. An on-site evaluation of every facility regulated pursuant to this article shall be conducted no less than once per year by announced or unannounced visits. The commissioner shall have access to the premises, personnel, children in care and records of the facility, including, but not limited to case records, corporate and financial records and board minutes. Applicants for licenses

~~13Public Welfare Law of West Virginia, Chapter 49, Article 2B, Section 9~~ <sup>e</sup>

and approvals shall consent to reasonable on-site administrative inspections, made with or without prior notice, as a condition of licensing or approval. When a complaint is received by the commissioner alleging violations of licensure or approval requirements, the commissioner shall investigate the allegations. The commissioner may notify the facility's director before or after a complaint is investigated and shall cause a written report of the results of the investigation to be made.

The commissioner may enter any unlicensed or unapproved child care facility or personal residence for which there is probable cause to believe that the facility or residence is operating in violation of this article."14e

2.13 M. Administrative and Judicial Review

"Any person, corporation, governmental official or child welfare agency, aggrieved by a decision of the commissioner made pursuant to the provisions of this article may contest the decision upon making a request for a hearing by the commissioner within thirty days of receipt of notice of the decision. Administrative and judicial review shall be made in accordance with the provisions of article 5, chapter 29 - a of this code."15e

2.14 N. Administrative Hearing Procedure for Licensed or Approved Child Welfare Agencies

A 1. This administrative hearing procedure applies to "any person, corporation, governmental official or child welfare agency aggrieved by a decision of the commissioner . . ."15e

14Public Welfare Law of West Virginia, Chapter 49, Article 2B, Section 10  
15Public Welfare Law of West Virginia, Chapter 49, Article 2B, Section 13

*B 2<sup>d</sup>* Reasons for Appeal: (a) Denial of license for child welfare agencies or approval of other specified facilities caring for children (b) Revocation of a license/approval or placement on provisional status for currently licensed or approved facilities (c) Any adverse decision of the commissioner pursuant to provisions of chapter 49, article 2, of the West Virginia code.

*C 3<sup>d</sup>* Request for a hearing: All requests for a hearing must be made in writing within 30 days of receipt of notice of the decision to deny application for a license, revocation of a license, or denial of a certificate of approval or revocation of a certificate of approval.

Upon receipt of the request, the state hearing officer will schedule the hearing and give all parties at least ten days notice of the date, time and place of the hearing, and a brief statement of the matters asserted or the issue(s) involved.

*D 4<sup>d</sup>* State Hearing Officer: The hearing will be conducted by an impartial state hearing officer who has not previously been involved in the case under appeal.

The state hearing officer will have the authority to (a) Administer oaths and affirmations (b) Regulate the course of the hearing (c) Hold conference for the settlement or simplification of the issues by consent of the parties (d) Dispose of procedural requests or similar matters (e) Rule upon offers of proof and receive relevant evidence (f) Arrive at a decision based on proper evidence presented at the hearing and the rules and regulations regarding the specific program in question.

The state hearing officer does not have the authority to issue subpoenas for witnesses or documents, books or records, although he or she may request voluntary attendance by witnesses or production of records or other evidence which are relevant to the issues in dispute.

*5.2* Procedures in the Hearing and Decision: (a) An opening statement by the state hearing officer to introduce the purpose of the hearing and briefly set forth rules and procedures to be utilized in the hearing (b) The hearing will be recorded by a mechanical device or by stenographic notes and characters (c) The state hearing officer will administer oaths and affirmations to those individuals testifying (d) The issue or issues to be decided upon in the hearing will be set forth at the beginning. Additional issues may be added during the hearing if agreed by both parties (e) Each party will be given opportunity to present its case without undue restrictions providing the evidence and information is related to the issue or issues involved in the hearing. All material evidence entered will be noted in the record and numbered. The rules of evidence as applied in civil cases in the circuit court of the state shall be followed (f) Each party has the right to cross examine witnesses who testify and the right to redirect and submit rebuttal evidence (g) Each party may object to improper or irrelevant evidence presented and have their objection ruled upon or noted in the record (h) Each party will be given the opportunity to sum up their position (i) Prior to making a final decision, each party will have an opportunity to present its view of the facts and applicable law in a written statement to the state hearing officer. If submitted either or both parties will be allowed to

review the written statements of the adverse party and submit a final written argument on the matter prior to the final decision of the hearing officer (j) Based on proper evidence presented at the hearing and any findings of fact and conclusions of law presented, the state hearing officer will make a final decision (k) A copy of the final order or decision will be served upon each party and attorney in person or by registered or certified mail. (1) Any party requesting a hearing or an appeal from an adverse decision of the Department of Welfare shall bear the necessary and attendant costs of such an appeal or hearing, including costs of transportation, court reporting, production, and copying of documents and all similar costs. Costs for a fact finder or hearing officer shall be borne by the Department of Welfare.

*F. 8.* Judicial Review: Any party adversely affected by the final decision may institute a judicial review by filing a petition in either the Circuit Court of Kanawha County or in the circuit court of the county in which the petitioner lives or does business.

SECTION II: PROCEDURES TO ESTABLISH A DAY CARE CENTER

This is a simplified procedure to follow in establishing and operating a day care center:

III: PREPLANNING

Three State agencies share in West Virginia's day care licensing process: the State Fire Marshal's Office; the State Department of Health; and the State Department of Welfare. Each of these agencies has specific licensing requirements, all of which must be met before a license to operate a day care center will be issued.

A: STATE DEPARTMENT OF WELFARE

State Licensing Supervisor  
Division of Social Services, Room 850  
1900 Washington Street, East  
Charleston, West Virginia 25305  
Telephone: 348-7980  
(REQUEST LICENSING STANDARDS FOR DAY CARE CENTERS)

Procedure:

- a) Contact the State Department of Welfare. Ask for a copy of the State Day Care Licensing Requirements for Centers.
- b) A licensing specialist will explain the standards and procedures and respond to questions.
- c) A licensing specialist will make an on-site evaluation of the building and grounds.
- d) A licensing specialist will provide an application form and will assist with the completion of this form.

- (e) A licensing specialist will monitor and assess the day care program from planning stages through implementation, observing areas of compliance and noncompliance and offering constructive consultation.
- (f) A licensing specialist will make recommendations concerning the day care center.

B <sup>2.</sup> STATE FIRE MARSHAL'S OFFICE

1800 Washington Street, East  
Charleston, West Virginia 25305  
Telephone: 348-2191  
(REQUEST FIRE SAFETY REGULATIONS FOR CHILD CARE CENTERS)

Procedure:

- (a) Contact the State Fire Marshal. Request a copy of fire safety standards and an inspection of the proposed facility.
- (b) A fire safety inspection and evaluation will be made.
- (c) A fire inspection report will be issued to the applicant and to the Department of Welfare. This report specifies requirements which must be met. The State Fire Marshal's Office will approve the center for opening only after full compliance with fire safety regulations.
- (d) After the day care center is open, a fire inspector will continue to monitor and evaluate the center's compliance with State fire safety codes and regulations.
- (e) The State Fire Marshal's Office will list requirements concerning the day care center.

*C. 2.* STATE DEPARTMENT OF HEALTH

Office of Environmental Health Services  
General Environmental Health Division  
1800 Washington Street, East  
Charleston, West Virginia 25305  
Telephone: 348-2967 or 348-2968  
(REQUEST CHILD CARE CENTER REGULATIONS)

and

The Bureau of Nutrition  
1800 Washington Street, East  
Charleston, West Virginia 25305  
Telephone: 348-8870  
(REQUEST NUTRITION INFORMATION FOR CHILD CARE CENTERS)

The State Department of Health is concerned with two distinct areas for licensure: sanitation and nutrition.

*(4)* SANITATION

Procedure:

- 1. a.* Contact the State Department of Health, Office of Environmental Health Services; ask for copy of Child Care Center Regulations and instructions for submitting floor plans of the proposed facility.
- 2. b.* Submit floor plans to the State Department of Health, Office of Environmental Health Service per instructions.
- 3. c.* When you have received written approval of the plans from the Office of Environmental Health Services, contact the local/county health department and request that the sanitarian conduct a preopening inspection of the facility after construction or remodeling is completed and all equipment installed. All areas of noncompliance noted during the inspection must be corrected before the center will be issued a permit to operate by the county health department. One or more inspections may be necessary.

- 4 d. The sanitarian will submit a copy of the inspection report to the State Department of Health, Office of Environmental Health Services for review. The Department of Welfare must receive written approval of the facility from the Office of Environmental Health Services before considering the licensure of the day care center.
- 5 e. After the day care center is open, the local sanitarian will conduct routine inspections to assure continued compliance with applicable regulations.
- 6 f. The Office of Environmental Health Services will make recommendations to the Department of Welfare based on these inspection reports.

(b) NUTRITION

Procedure:

- 1 d. Contact the State Nutritionist. Ask for assistance in menu-planning for the day care center.
- 2 e. An area nutritionist will offer helpful suggestions about planning and preparing economical and nutritious meals and snacks.
- 3 f. An area nutritionist will provide ongoing consultation to the day care center.
- 4 g. The State Nutritionist will monitor and assess menus, meals and snacks, making recommendations concerning the day care center.

3.2 RESPONSIBILITIES OF THE LICENSING REPRESENTATIVE

VISITS: Your licensing representative may make announced or unannounced visits to a day care center. These will include the site planning sessions

prior to licensing, post-licensing visits after the issuance of the license, and other inspection, supervisory and consultative visits.

*A.B.* B. OPENING A NEW DAY CARE CENTER

What type of care already exists in the community?

- How many are already operating?
- What ages are served - infants, toddlers, preschool, school-age, combinations?
- What age group seems to most need care?
- Is there a waiting list?
- Do any programs have unfilled spaces?
- What hours are the centers open?
- How many days a week?
- Fees being charged?
- Do they offer night or evening care?
- Where are they located?
- Is there a need for more centers in the same area?

Is there a need for a child care center in the area you have chosen? Conduct a survey:

- Door-to-door
- Person-to-person
- Telephone
- Newspaper advertising
- Public distribution of brochures, questionnaires, posters.

- Contact the local day care information and referral agency, United Way Planning Office, town or city planning office, U.S. Census Bureau, information office of school systems for school census data.

Find out, in the survey:

- Number of families in your community.
- Number of working families with children 0 - 6 years, 7 - 14 years.
- Geographic concentration of families with children.
- Income distribution of families.
- There is transportation to and from the area. Will you be expected to provide transportation?
- There is a traffic pattern which makes your site accessible to families; yet the center itself is buffered from heavy traffic, noise and pollution.
- There is acceptance of the idea of having a child care center in the neighborhood. Will people object to increased traffic, activity and noise?
- There are zoning and land-use ordinances that must be complied with.
- There is a long-term lease available if you plan to rent, and the lease permits renovations and alterations, at your own or the owner's expense, in order to meet State licensing requirements.
- There is room for expansion in the future if you wish.
- There is enough money available to finance costs, upkeep and maintenance before you achieve full enrollment and before you realize a return on your investment. -(Sufficient operating funds (reserves, guarantees of a loan or funds, fees) shall be available at all times to assure at least 1 year or 6 months of operation).

- There are people available for staffing the center who meet licensing requirements.

SECTION III: DAY CARE CENTER PROGRAM AND STAFF REQUIREMENTS

1. FACILITY ADMINISTRATION

2. REGULATION: A day care facility shall have written policies covering the following areas:

- (a.) The type of service to be offered to children served;
- (b.) Admission requirements and enrollment procedure;
- (c.) Fees charged and plan for payment;
- (d.) Liability insurance coverage;
- (e.) Provision for special needs of individual children;
- (f.) Transportation arrangement, when provided by the facility; and
- (g.) Permission by parent(s) or guardian(s) for trips outside the day care facility.

COMPLIANCE REQUIREMENTS: Written policies shall be available, discussed with each staff member, and with parents at the time of enrollment of the child.

3. REGULATION: A day care facility shall have information and instructions from the parents to enable the staff to make decisions or act on behalf of the child.

COMPLIANCE REQUIREMENTS: Records shall be maintained, updated and available for inspection by the licensing specialist. Records, including facts learned about children and their relatives, shall be kept confidential by the facility and the Department of Welfare. Confidentiality release forms shall be signed by the parent(s) prior to release of information to any other individual, agency, or organization.

\*All program and staffing requirements outlined here are established for all day care facilities.

Records shall cover:

- (a.) The child's name, birthdate, address;
- (b.) The parent(s) or guardian(s) name, home and business addresses and telephone number;
- (c.) Names, addresses and telephone numbers of persons who can assume responsibility for the child if the parent(s) or guardian(s) cannot be reached in an emergency.
- (d.) Names, addresses and telephone numbers of persons authorized to take the child from the day care facility;
- (e.) Health and developmental information concerning the child, including current reports of physical examinations, immunizations and lists of allergies, if any;
- (f.) Name, address and telephone number of the doctor who should be contacted in case of a medical emergency;
- (g.) Parent(s') or guardian(s') signed permission for emergency medical service;
- (h.) Daily attendance; and
- (i.) Fee charged.

*C 2.* REGULATION: The admission policies and procedures of a day care facility shall be nondiscriminatory in regard to race, color, creed, religion, sex, national origin, handicap, and age or marital status of parents.

COMPLIANCE REQUIREMENT: The written admission policies shall include a statement that the facility is operated on a nondiscriminatory basis, and the practice of this policy is demonstrated through equal treatment in regard to

race, color, creed, religion, sex, national origin, handicap, and age or marital status of parents.

*D.S.* REGULATION: The admission policies and procedures of a day care facility shall be established to aid the child in the day care experience.

COMPLIANCE REQUIREMENTS:

- (a.) Parent(s) or guardian(s) and child shall have a preadmission visit to the facility in order to prepare the child for the day care experience.
- (b.) Parents and the director or designated staff member shall have a preadmission conference to discuss the child's developmental history, personal characteristics and special needs. Pertinent information affecting the child's health, safety and well-being shall be shared with staff working with the child.
- (c.) Parents and the facility operator shall agree on fees, expectations, program and policies, prior to the admission of the child.
- (d.) Parents shall furnish health records within 30 days after the admission of the child. Emergency releases and immunization plan shall be furnished prior to the child's admission.
- (e.) Parents shall complete and submit an application for day care services prior to the admission of the child.

*E.S.* REGULATION: A day care facility shall supplement and reinforce the parent's positive child-rearing efforts.

COMPLIANCE REQUIREMENTS:

- (a.) Parents shall be encouraged to visit the facility, observe and participate in the care of their children.

- (b.) Concerns about the health, development or behavior of any child shall be communicated to the parent promptly and directly.
- (c.) At the time of enrollment and thereafter as the need arises, a staff member shall discuss with each parent the child's habits, activities and schedules at home and at the day care center.
- (d.) Parents and staff shall prepare a child for discharge from the day care facility in a manner that is least distressing to the child.

RECOMMENDED PRACTICES: Planning for the child should be shared by the parent and the day care center.

Suggestions:

- (a.) Day care facilities with boards of directors should include as board members at least two parents of children served at the center. Facilities without boards of directors should have a parent advisory committee, which meets three or more times a year.
- (b.) Parents and staff should have at least three group meetings a year to discuss common concerns.
- (c.) Parents should be encouraged to visit the day care facility and to contribute skills to the program.
- (d.) Parents should be encouraged to talk with the staff about the child on a daily or weekly basis.

~~6.~~ REGULATION: When transportation is provided on a regular basis by a day care facility, directly or through contract, the facility shall be responsible for the health, safety and welfare of the children. Transportation is provided on a regular basis when children are transported once a month or more.

COMPLIANCE REQUIREMENTS:

- a. The driver of the vehicle transporting the children shall be at least 18 years of age and not more than 65 years of age, unless certified for the job by a physician, and shall meet the personal and health qualifications of other staff.
- b. The driver of the vehicle shall hold an appropriate license to transport children as required by the State Department of Motor Vehicles.
- c. The driver shall not leave the vehicle unattended while there are children in it.
- d. The driver shall see that:
  - (1) The vehicle is not overcrowded.
  - (2) Doors remain locked and no child stands in the vehicle while it is moving.
  - (3) Good order is maintained for the safety of the children.
  - (4) A responsible person delivers the child to the vehicle and meets the child when he is returned home. No child shall be left unattended.
- e. The driver shall have knowledge of first aid or shall have an aide trained in first aid. There shall be an equipped first aid kit on the vehicle. (See *HAAR* ~~D-3R~~)
- f. The driver shall maintain the vehicle in safe running condition at all times.
- g. The driver shall conform to State vehicular laws, rules and regulations.
- h. The driver shall operate a vehicle only if the vehicle used in transporting children is insured against liability.

i. The driver shall insure that all children age 5 and under are protected by an age appropriate safety apparatus.

(1) A car bed or car seat which meets federal motor vehicle safety standards shall be used for all children under age 3.

(2) A seat belt shall be sufficient for children between ages of 3 and 5.

(3) No child shall share safety apparatus with another child.

RECOMMENDED PRACTICES: The driver should be accompanied by an attendant if there are more than six children on the vehicle.

Each child age 6 and above should be protected by a seat belt.

4.2 B. PROGRAM

1. REGULATION: The program conducted in a day care facility shall provide: Experiences which promote the individual child's physical, emotional, social and intellectual growth and well-being.

Both active and passive learning experiences which promote the development of skills, social competence, self-esteem and positive self-identity.

COMPLIANCE REQUIREMENTS:

a. Provide a variety of games, toys, books, crafts and other material sufficient to allow a child a choice of materials.

b. Provide a written schedule of daily activities, with a reasonable routine for meals, snacks, sleep, nap-time and indoor and outdoor play.

c. Provide a designated areas where the child can sit quietly or lie down to rest. There shall be a nap period of at least one hour for children who need it and, for the children unable to sleep, time and space for rest and quiet play shall be available. Sleep and rest periods shall be under adult supervision at all times.

- d. Provide the children with freedom to go to the toilet and to get a drink of water as they feel the need.
- e. Provide activities indoors and outdoors which will allow the children to make use of both large and small muscles.
- f. Provide experiences and equipment appropriate to the age and stage of development of the individual child.
- g. Provide one hour of outdoor play daily, weather permitting, in all seasons of the year.
- h. Provide a balance of quiet and active, group and individual activities with sufficient flexibility to respond to the needs of the individual children.
- i. Provide for individual self-expression in conversation, imaginative play and creativity.
- j. Provide for running, climbing and other vigorous physical activities.
- k. Provide learning experiences regarding the value of food in relation to growth and development.
- l. Provide field trip visits to places of interest in the community.
- m. Provide opportunities for the child to participate in such activities as preparing for meals, taking out and putting away materials and caring for his own clothing and bedding.
- n. Provide respect for each child as an individual, allowing for choice of activities and interests.
- o. Provide a variety of social experiences. Grouping arrangements shall take into account the child's level of maturity. Mixed-age experiences shall also be provided.

*Per*  
p. Provide for the cultural diversity of the children by incorporating their language, food, celebrations, and life styles in the program.

*2.* REGULATION: The children's behavior shall be enhanced by positive guidance, redirection and the setting of clear-cut limits which foster the child's own ability to be self-disciplined.

Staff shall not use spanking or other forms of corporal punishment.

COMPLIANCE REQUIREMENTS:

- a. Children shall be disciplined with kindness and understanding.
- b. Staff shall use disciplinary measures designed and carried out in such a way as to help individual children develop self-control and to assume responsibility for their own acts.
- c. Simple, understandable rules shall be established for both children and staff. These rules shall set the limits of behavior required for the protection of the group and individuals within it.
- d. Discipline shall be developmentally related and shall not be out of proportion to the particular inappropriate behavior.
- e. Discipline shall be related to the child's act, handled without bias and without prolonged delay on the part of the adult involved so the child is aware of the relationship between acts and consequences.
- f. Discipline shall be delegated to persons who have an ongoing relationship with a child.
- g. Removal from the group as a means of helping a child gain control shall be for reasonable periods of time. When possible, children should help set time limits.

h. Behavior problems shall be treated individually and privately. If there is an assessment of a child's pattern of unacceptable behavior, the entire staff should be aware of it and cooperate in carrying out the specific plan developed for the child.

i. Staff shall not use punishment which is humiliating, shaming, frightening or otherwise physically or emotionally damaging to children. Punishment shall not be associated with food, rest, toileting (training), isolation for illness, or excessive exercise.

*f* 3. REGULATION: A day care facility shall have sufficient indoor and outdoor space and equipment in relationship to the number and ages of children in care to provide for the reasonable comfort and convenience of children, staff and parents.

a. There shall be at least 35 square feet of indoor activities space per child available (exclusive of bathrooms, halls, kitchen, storage places, exit passages, fire escapes, laundry and furnace rooms and cabinet and stationary equipment areas).

b. There shall be at least 75 square feet of outdoor play space per child. Where outdoor area is limited, groups may be scheduled on playground in order to maintain the established minimum of 75 square feet per child. There shall be an enclosure surrounding the play area that is at least three feet high, and the enclosure material shall be safe for children. Use of a nearby playground shall be permitted provided that it has a safe access for children and provided that it is enclosed and adequately equipped.

- c. There shall be equipment in sufficient quantity to allow at least two outdoor play experiences for each child.
- d. There shall be at least one hand-washing basin and one flush toilet for every 15 children.
- e. There shall be an individual cot and sheet or bottom covering for each child two to six years of age. A blanket or top covering should also be available for each child, and used as needed. There shall be two feet of space from cot to cot, and an aisle of at least two feet between rows of cots.
- f. There shall be a telephone in the day care facility.

*A.* REGULATION: The amount and variety of materials and equipment available and its arrangement and use, shall be appropriate to the developmental needs of the children in care.

COMPLIANCE REQUIREMENTS:

- a. Provide materials and equipment of sufficient quantity so that children may make choices in what they want to do or play.
- b. Provide orderly storage of materials for children's use, arranged so that children may select, remove and replace them either independently or with assistance.
- c. Provide furniture that is safe, durable, child-size and appropriate for the age level of the children.
- d. Provide basic equipment that includes building materials, wheel toys, dramatic play materials, manipulative play materials, creative materials, reading materials, music materials, climbing apparatus and the like.
- e. Provide for immediate removal of broken or unsafe equipment.

f. Radio and television shall be used only when they supplement and enhance the daily plan as learning experiences.

5. REGULATION: A day care facility serving school-age children shall provide a program that is designed to complement and supplement the child's experiences at home and in school.

COMPLIANCE REQUIREMENTS:

a. Opportunities for active play, for learning skills, for rest, for group discussion and for intellectual, physical, social and emotional development shall be provided, appropriate to the age, interests and capabilities of the individual child.

b. Qualified and sufficient staff shall be available to provide special attention to the school-age child.

6. REGULATION: A day care facility offering night care shall provide program modifications for the special needs of children during the night.

COMPLIANCE REQUIREMENTS:

a. When possible, children are left for care and picked up before and after their normal sleeping period so that there is minimal disturbance of the child during sleep. However, no child shall remain in care for 24 hour periods.

b. A selection of toys for quiet activities which can be used with minimum adult supervision shall be available.

c. Bathing facilities shall be provided.

d. Comfortable beds or cots, complete bedding and night clothes shall be available.

e. Sufficient staff shall be available to assist children during eating and prebedtime hours and during the morning period when dressing.

f. During sleeping hours, staff shall be in the same room with the children and shall be awake in order to provide for the needs of children and respond to an emergency.

*16/2e* REGULATION: A day care facility serving "drop-in" children shall provide a program that reflects the special needs of those children.

COMPLIANCE REQUIREMENTS:

a. Sufficient personnel shall be available to effectively handle admission records, irregular check-in and check-out times and explanation of policies including financial arrangements.

b. Children displaying unusual anxiety symptoms shall be given special consideration.

c. "Drop-ins" shall be counted in the total daily enrollment and at no time shall the center exceed the number of children for which it is licensed.

8. REGULATION: A day camp serving the same group or groups of children for more than 30 consecutive days shall provide a creative, recreational, and educational opportunity in group activity in the out-of-doors which contributes to each child's mental, physical, emotional and social growth.

a. The director shall be knowledgeable in camp administrative practices and have not less than one season of leadership experience in an organized children's camp or related activity.

b. Hazardous camp activities such as aquatics, archery, horseback riding and riflery shall be conducted by a qualified adult activity specialist capable of implementing established safety standards.

(1) An aquatics supervisor for swimming programs shall be currently certified as an American Red Cross Water Safety instructor, YMCA Aquatics instructor, or a Boy Scouts of America national aquatics instructor.

(2) The aquatics supervisor in any camp who supervises swimming programs shall be currently certified as an American Red Cross senior lifesaver, a YMCA senior lifesaver, or a Boy Scouts of America lifeguard.

(3) Lifesaving equipment, which shall include but not be limited to a bell or whistle, two assist poles and a ring buoy, shall be provided at a swimming area and placed so it is immediately available in case of emergency.

c. Written emergency procedures shall be provided at a camp for fire, tornado, serious accident, illness or injury and a lost camper. Each member of the staff shall be informed of his duties in case of an emergency.

d. A change in camp locations, dates of operation or cancellation shall be reported to the Department of Welfare prior to the change.

e. The camp shall offer opportunities for children to develop an appreciation and understanding of their natural environment. Activities shall be provided which are conducive to the learning of skills, increase of knowledge, improvement of health and development of character as part of the day camp experience.

f. Children under the age of 2 years shall not attend day camps.

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STAFFING

REGULATION: A day care facility shall have sufficient staff to provide continuous supervision (with provision to respond to an emergency), to offer individual attention to children and interact with children for the benefit of the children's physical, social, emotional and intellectual well-being.

COMPLIANCE REQUIREMENTS:

Ratios of day care staff to children shall be maintained as follows:

CHILDREN'S AGE	STAFF
2 years to 3 years	1 adult to 8 children
3 years to 4 years	1 adult to 10 children
4 years to 5 years	1 adult to 12 children
5 years to 6 years	1 adult to 15 children
School Age	1 adult to 16 children

The staff ratio shall be maintained at all times and at least two responsible adults shall be at the facility at all times.<sup>3</sup> During naptime, one adult may supervise each room of sleeping children as long as all other staff needed to meet ratios remain at the facility in order to respond to emergencies.

Whenever a staff member is engaged in bookkeeping, cooking or other maintenance duties, he/she may not be counted as part of the staff-child ratio.

2. REGULATION: A day care facility shall have on its staff individuals with the skill and competency necessary to contribute to each child's physical, intellectual, emotional and social development.

<sup>3</sup>One paid adult staff member may work alone when six or less children are present.

COMPLIANCE REQUIREMENTS:

a. Each staff member shall:

- (1) Be able to read and write.
- (2) Be able to carry out a program emphasizing child development.
- (3) Be able to provide evidence that he or she meets the health requirements set forth in the health and sanitation section.
- (4) Be able to work with children without recourse to physical or emotional punishment.
- (5) Be able to praise and encourage children and provide them with a variety of learning and social experiences appropriate to the age of the children served.
- (6) Be able to communicate with parents and children.
- (7) Be able to recognize and act against hazards to physical safety and mental health.
- (8) Be able and willing to increase skills and competence through experience, training and supervision.
- (9) Be able to demonstrate dependability, patience, maturity of judgment, warmth, flexibility and understanding.

b. Each teacher of a day care facility shall:

- (1) Be at least 18 years of age.
- (2) Have at least a high school education or certified equivalency.
- (3) Be able to plan and carry out a program emphasizing child development.

c. Each teacher-aide of a day care facility shall:

(1) Be at least 18 years of age, if full time. Part-time teacher aides, under age 16, shall obtain a work permit from the County Board of Education. All part-time teacher aides shall work only under the direct supervision of a full-time day care teacher.

(2) Be able to assist teachers in program and activities.

(3) Be able to supervise children's play as directed.

(4) Be able to prepare equipment and supplies for group activities.

(5) Be able to interact with children who require special attention.

(6) Be able to watch over sleeping children.

(7) Be able to serve meals and snacks.

d. Each day care center utilizing volunteer services shall:

(1) Provide orientation training and supervision.

(2) Maintain a current record including written references and health report from an examining physician on each volunteer working directly with children or in food preparation and/or serving.

A volunteer shall not be used to meet staff ratios except in instances of staff illness or emergency. However, under unusual circumstances, day care licensing staff may approve a volunteer in staff-child ratios when the volunteer meets at least the requirements of a teacher-aide and serves the center at least two hours daily on a regular basis.

32 REGULATION: The operator and/or director of a day care facility shall have the skills necessary to manage a day care facility, the ability to relate effectively to parents and community, the ability to plan and conduct regular

staff meetings and to provide staff training, and the ability and willingness to provide a child care program which meets the standards set forth in these requirements.

COMPLIANCE REQUIREMENTS:

The operator/director of a day care facility shall:

- a. Be at least 21 years old.
- b. Have a high school education plus nine college credits in early childhood development or related field. A Child Development Associate credential may be substituted for the college credit. Directors employed prior to the promulgation of this rule shall have 24 months to comply with this requirement.
- c. Be able to provide evidence of one year work experience in a program for young children. Operators/directors who cannot establish previous working experience with young children shall employ a full-time staff person with one year work experience in a program for young children.
- d. Be responsible for providing a child care program and facility which meets the standards set forth in this document.
- e. Be responsible for maintaining adequate records on enrollment, attendance, finances, staff and children.
- f. Be responsible for submitting reports to the Department of Welfare when requested.
- g. Be responsible for screening, scheduling and supervising the conduct of any staff, volunteers or others who provide services in the facility.

- h. Be responsible for cooperating with the licensing specialists and other appropriate agencies in efforts to maintain or improve the quality of care and competence of staff.
- i. Be responsible for keeping the Department of Welfare advised of changes in ownership, directorship and facilities.
- j. Be responsible for planning and/or conducting regular staff meetings, at least once a month, and assuring adequate supervision of the children if meetings are held during regular operating hours.
- k. Be responsible for staff training and attendance at workshops and programs related to early childhood development, at least twice a year.
- l. Be responsible for admissions, recruitment and public relations.
- m. Be responsible for informing parents and other interested persons about the goals, policies and content of the day care program offered by the facility.
- n. Be responsible for parent-teacher conferences, at least twice a year.
- o. Be responsible for reporting suspected child abuse or neglect to the local Department of Welfare.
- p. Be responsible for keeping the following information on file: number of staff and children at the facility each month, a profile of the children served (ages, special needs, handicaps, etc.), brief description of program and facility. This information will be collected by the Department of Welfare for the annual report and directory.

*AR* REGULATION: A day care facility shall have information about staff members prior to employment and shall update such information as appropriate

after employment. No individual who has been convicted of child abuse, neglect or sexual abuse, or is awaiting hearing on such charges, shall be employed or retained in the day care facility.

COMPLIANCE REQUIREMENTS: Records shall be maintained and kept current on all staff members of the day care facility, full-time, part-time and regular volunteer(s). These records shall be open for inspection, as required, to the day care licensing staff. Records shall be kept confidential by both the facility and the Department of Welfare. Such records shall include:

- a. Name, address, telephone number, birthdate.
- b. Name, address, telephone number of an individual who should be contacted in case of an emergency.
- c. Qualifications for employment, including:
  - (1) Education;
  - (2) Training in relation to early childhood development;
  - (3) Past employment;
  - (4) Experience with children; and
  - (5) Written response from two references, personal and employment, if applicable.
- d. Current health information, including a complete physical examination prior to employment and a physical examination every two years thereafter.
- e. Date of current employment.

5. REGULATION: In choosing an appropriate staff, the day care facility shall provide job descriptions and shall have clearly defined personnel policies.

At the time of application for a license to operate a day care facility or at the time of application for renewal of license to operate a day care facility, job descriptions and personnel policies shall be submitted to the Department of Welfare.

COMPLIANCE REQUIREMENTS: An individual job description for each staff position shall include the following information:

- a. Position title
- b. Position qualifications
- c. Position duties and responsibilities

Personnel policies of the day care facility shall include the following information:

- a. Length of work day and work week
- b. Sick leave provisions
- c. Vacation time and paid holidays
- d. Fringe benefits
- e. Probationary periods and tenure provisions
- f. Health and medical requirements
- g. Staff meetings and staff training
- h. Termination procedures
- i. Annual staff evaluation

*A* *6.* REGULATION: Training in a day care facility is essential to all who work with children and all who have an interest in their welfare. The day care staff needs to understand through a knowledge of child growth and development that children develop differently; that children have rights as individuals;

that children need to experience pleasure in activities with others; that children need a routine; that parents are important to children; and that the customs and cultures of children shall be respected.

COMPLIANCE REQUIREMENTS:

The responsibility for staff training rests with the director who shall:

- a. Require each staff member to read and become familiar with day care licensing standards and requirements.
- b. Have regular in-service staff training at the day care facility, or in workshops and training programs at the facility or away from the facility.

*Handwritten:* HEALTH, NUTRITION AND SAFETY

*Handwritten:* 1. REGULATION: Evidence of the general state of each child's health, presented by the child's parent or guardian upon admission and every 2 years thereafter to the day care facility, shall be maintained by the day care operator and kept up-to-date. If medical problems are suspected at any other time, the director may request additional medical examinations.

COMPLIANCE REQUIREMENTS:

- a. A current written statement from a physician describing the child's health status, indicating any unusual condition of which the staff must be aware.
- b. A record of immunizations, signed by a physician or by a public health official, on file at the facility for each child in day care. Immunizations shall include rubella, measles, whooping cough, diphtheria, tetanus, poliomyelitis, tine test and other designated by the West Virginia Department of Health. If immunizations are not complete at the time of the child's admission, a written plan for completion, signed by a physician or public

health official, should be on file. Immunizations shall be completed in accordance with the written plan.

c. A day care center shall not require a child in care to receive any medical treatment when the parent(s) or guardian of the child or the child object to such treatment on the grounds that it conflicts with the tenets and practice of a recognized church or religious denomination of which the parent(s) or guardian or child is an adherent. In potentially life-threatening situations, the center shall refer the child's care to appropriate medical and legal authorities.

*str* 2. REGULATIONS: The day care facility shall be prepared to respond quickly and appropriately to sudden illnesses or accidents.

COMPLIANCE REQUIREMENTS:

a. All adult staff members shall receive a minimum of eight hours training in principles of first aid and at least one shall be on the premises at all times when children are in attendance.

b. In-service training by qualified medical personnel for all day care staff shall include discussion of illness and symptom observation and evaluation.

*str* 3. REGULATION: All day care programs shall take health and safety precautions within the facility.

COMPLIANCE REQUIREMENTS:

a. Arrange for parent(s), guardian(s) and/or staff to sign in/out each child daily.

b. Establish and post a disaster plan for fire, storms and other emergencies, in accordance with policy suggestions from the State Fire Marshal, the Red Cross and/or other community sources.

- c. Conduct fire safety drills twice a month and keep a written record of the drills.
- d. Maintain a current emergency card file accessible to all staff members and portable for trips off premises.
- e. Arrange for a staff member to accompany and to remain with a child during emergency care or treatment until parent(s) or guardian(s) arrive, and provide substitute coverage for the other children at the facility.
- f. Notify parent(s) or guardian(s) immediately of illness or injury to the child.
- g. Arrange with a physician or other health source for emergency treatment of a sick or injured child.
- h. Record accidents, illnesses or injuries and file in the child's folder.
- i. Keep on hand an equipped first aid kit for every 20 children. A first aid kit must be taken by staff on all trips away from the facility. This kit shall include: soap, antiseptic, bandaids, sterile gauze pads, adhesive tape, tweezers and scissors.
- j. Observe each child daily for symptoms of illness or injury.
- k. Separate from the group any child who becomes ill or who is suspected of illness. The child must be under the supervision of an adult at all times.
- l. Remove a sick child from the facility as soon as possible if his illness is communicable or the facility is unable to properly care for his needs.
- m. Give the child medication only by request of and with written permission from parent(s) or guardian(s).

n. Administer prescriptive medication only from the original bottle and with a current prescription from a physician.

o. Carry liability insurance to protect the child, the staff and the facility in case of accident.

*4.* REGULATION: Operators of day care facilities shall ensure that the day care program and premises minimize the risk of accidental injury.

COMPLIANCE REQUIREMENTS:

a. Day care activities and premises do not expose children to situations which may be hazardous to the particular age or capacity of the child.

(1) Electrical cords shall be insulated and in good repair.

(2) Electrical cords shall be unplugged when not in use.

(3) Electrical outlets within reach of children shall be protected by a shield when not in use.

(4) Electrical appliances, such as hot plates and coffee pots, shall not be stationed in children's areas. An appliance may be used for program under adult supervision, but must be removed from the children's areas immediately after use.

(5) Hot pipes and radiators shall be shielded.

(6) No space or open flame heaters shall be used without prior approval by the State Fire Marshal's Office.

(7) Approved floor coverings shall be firmly anchored.

(8) Doors shall close properly and all fire doors shall be kept closed at all times.

(9) All lead paint shall be removed from the premises.

(10) Venetian blind cords, and other hanging cords, shall be tied above the reach of children.

(11) Table cloths and other hanging items which can be pulled by children shall not be used.

(12) Small items which can be swallowed shall not be accessible to children.

(13) Household cleansers, chemicals and medicines shall be out of reach of children and locked in a cabinet, and kept away from foodstuff.

(14) Lock tops shall be on all medications.

(15) Containers originally designed for edibles shall not be used for the storage of toxic or medicinal medications.

(16) When off premises, children shall be kept in a group with sufficient staff to maintain staff-child ratios, but no less than 2 staff per group.

Children shall be taught to hold hands, stay in a line or to hold to a safety rope.

5. REGULATION: When children with special needs are admitted to a day care facility, there shall be provisions to meet those needs. "Special needs" refer to a wide range of physical, mental or emotional conditions which affect the child's immediate social and physical adjustment and long range personal development. Examples include:

Speech, visual and hearing deficiencies;

Mental retardation;

Behavioral/emotional disturbances;

Heart or lung ailments;

Diabetes;

Allergies; and

Motor disturbances or paralysis.

Day Care Centers for Mentally Retarded Children shall follow guidelines established by the State Department of Health, as well as these Licensing Standards.

COMPLIANCE REQUIREMENTS:

- a. When children with special needs are admitted, the responsible individual consults with the child's parents, the child's source of professional health care or, where appropriate, other health consultants.
- b. The appropriate staff of the facility receives instructions related to the nature of the disability, the child's potential for growth and development, his adjustment to the facility program and prescriptive plans to foster his development.
- c. Where the nature of the special need or the number of children with special needs necessitates added care, sufficient staff and equipment are supplied to cover these needs.

*SR* REGULATION: There shall be dental health programs designed to effect good oral hygiene, education and practice.

COMPLIANCE REQUIREMENTS:

- a. The day care facility shall utilize dental health consultation.
- b. Children shall be provided appropriate opportunities for supervised practice of brushing teeth.
- c. Oral hygiene concepts shall be a part of in-service training programs.

REGULATION: All day care facilities shall provide meals and snacks of a quantity and quality to supplement food served at home so that the daily nutritional needs of the child are met. Cultural and ethnic food appropriate to the children in the program and locality shall be a part of the meal planning.

COMPLIANCE REQUIREMENTS:

- a. All day care facilities shall consult with a nutritionist from the Bureau of Nutrition, West Virginia Department of Health, regarding compliance with nutrition standards.
- b. Children who are at the day care facility for four hours or more shall be served a quantity of food which will supply at least one-third of the National Research Council's current recommended dietary allowances. Children in the day care program for more than eight hours shall receive a quantity of food that will supply one-half to two-thirds of the recommended dietary allowances, depending upon the portion of the day they are cared for.
- c. At least one meal a day at the day care facility shall be a hot meal. Exceptions to the hot meal requirement can be made for special occasions. Snacks shall be served in mid-morning and mid-afternoon. For children who are served breakfast at the facility, the mid-morning snack may be eliminated.
- d. Menus for all foods served, including snacks, shall be written for a minimum of one week in advance and posted for parents to see.
- e. Written menus as planned shall be followed and any changes deemed necessary shall be written on the menus.

- f. Menus shall be dated, readily available to the food service staff and kept on file for a minimum of two months.
- g. Food allergies and other allergies shall be posted in an easily observable location. Food allergies of specific children shall be known by the cook, staff members and substitute staff members having direct contact with these children.
- h. Children shall be encouraged, but not forced to eat.
- i. The staff shall eat with the children and shall eat the same food as the children unless on a medically-prescribed diet. (Not applicable for infant care).
- j. The children shall be seated family style to allow for socialization.

8. REGULATION: Drinking water shall be freely available to children of all ages.

COMPLIANCE REQUIREMENTS:

- a. The facility has potable water available to all children and the staff.
- b. Children shall take a drink of water whenever they feel the need.
- c. Drinking fountains, if provided, shall be at the ratio of one per each 40 children.
- d. Drinking cups shall be single service and dispensed from an approved sanitary dispenser. Glasses may also be used, if washed and sanitized after each use.

9. REGULATION: Personal Health of Staff - Evidence shall be maintained at the day care facility that the staff are free from mental and physical health problems which may adversely affect their performance with children.

COMPLIANCE REQUIREMENTS:

- a. Written evidence shall be on file in the facility regarding preemployment physical examination of each adult employed. Physical examination reports shall be completed every 2 years thereafter.
- b. Written evidence shall be on file in the facility attesting that each adult is free from communicable tuberculosis as a result of a negative tuberculin test or a satisfactory chest x-ray taken within six months prior to employment. Such tests shall be repeated every 2 years.
- c. There shall be health records on all personnel, including:
  - (1) Current reports from a physician or health agency on the physical and emotional status of each staff member and regular volunteer; and
  - (2) A record of accidents and sick leave of each staff member and regular volunteer.
- d. All part-time staff shall be required to meet the health requirements of full-time staff.
- e. All regular volunteers shall be subject to the same health requirements as are applicable to paid staff members.
- f. There shall be provision for substitution for staff who are too ill to function effectively or who present a serious health hazard to others in the facility.

*4* E. DEVELOPMENTAL NEEDS OF THE CHILDREN

REGULATION: There shall be staff interaction with children in a personal way in order to further stimulate physical, intellectual, emotional and social growth.

COMPLIANCE REQUIREMENTS:

- a. There shall be frequent positive verbal communication between staff and children.
- b. There shall be eye-to-eye contact with the children.
- c. There shall be immediate attention to the physical needs of children. No crying shall be ignored and no child shall be routinely left on a cot except for rest or sleep.
- d. There shall be an opportunity for each child to identify regularly with one adult staff member who is able to provide reassurance and consolation and establish and maintain behavior limits.

*fb* F. RELOCATION, RENOVATION, ENLARGING, BUILDING OF DAY CARE FACILITIES

REGULATION: No person shall construct a building or structure to be used as a child care facility, or extend, alter or modify any structure used as a child care facility without first making written application to the State Department of Health and the State Fire Marshal's Office.

Construction, extension, alteration or modifications shall not commence until a letter of review or inspection report has been obtained for such purpose from these agencies. Plans shall also be submitted to the State Department of Welfare.

Facilities moving to a new location shall be evaluated by the State Department of Health, the State Fire Marshal and the State Department of Welfare to assure continued compliance with licensing requirements, and such facilities will not be acceptable until evaluated and approved. Thirty days notice shall be given the Department of Welfare prior to relocating and a new application

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shall be submitted for the operation of a day care facility planned in the new location.

SECTION ~~IV~~<sup>5</sup>: SUPPLEMENTAL INFANT - TODDLER DAY CARE CENTER STANDARDS

An infant-toddler program shall be separately licensed. The program may provide care for children three months to two years old.

The procedures to establish an infant-toddler program and the general organization of the program shall follow the same requirements as those for day care facilities serving children two years of age and older. The facility shall meet all requirements of the State Fire Marshal's Office, the State Department of Health and the State Department of Welfare. These are additional and specific regulations for infant-toddler care.

5.1 ~~A~~<sup>e</sup> ADMISSIONS

Admission conferences with parent(s) or guardian(s) and the children's records shall also cover current feeding plans for the child.

5.2 B. TRANSPORTATION

A ~~(1)~~<sup>e</sup> The driver shall be accompanied by an attendant if there are children under two years of age.

B ~~(2)~~<sup>e</sup> Approved infant safety seats shall be provided.

5.3 ~~e~~<sup>e</sup> PROGRAM

A day care facility serving children three months to two years shall provide an environment which protects the children from physical harm but is not so restrictive as to inhibit physical, intellectual, emotional and social development.

A ~~(1)~~<sup>e</sup> There shall be a waking time crawl space of 25 square feet per infant and a waking time play area of 35 square feet per toddler.

B 2<sup>l</sup> There shall be an indoor area protected from general walkways within the facility where crawling children can be on the floor at least part of the day to explore.

C 2<sup>l</sup> There shall be sleeping equipment provided, including cribs for infants who have not yet begun to climb, and low cots provided for other children, with sheets and blankets. Bars on cribs shall be close enough to prevent a child's head from getting caught between the bars. (Federal regulations 2 3/8" apart). Tiered or stackable cribs are prohibited except in the infant/toddler facilities that received approval for this equipment prior to the promulgation of this rule.

D 2<sup>l</sup> There shall be sleeping areas which are buffered from activity areas. Space in the sleeping area shall allow for at least two feet between cribs, beds or cots.

E 2<sup>l</sup> There shall be no more than ten children within an activity's area.

F 2<sup>l</sup> There shall be low chairs and tables or infant seats with trays provided for table play and meal time for children no longer being held for feeding. High chairs, if used, must have a wide base and safety strap.

G 2<sup>l</sup> There shall be comfortable chairs provided for staff to use when feeding, holding or playing with the children.

H 2<sup>l</sup> There shall be other areas within the facility as well as out-of-doors where children are taken for a part of each day to provide some change of physical surrounding and social interaction opportunities.

I 2<sup>l</sup> There shall be infant seats, strollers and carriages available for outings. Children shall be taken outdoors daily unless it is raining or less than 40° Fahrenheit.

J ~~12~~. There shall be crude crafts materials for drawing, cutting and pasting as well as playdough. All materials shall be nontoxic.

K ~~12~~. There shall be infant equipment, such as mobiles, that stimulate eye-hand coordination while the child is in the crib.

L ~~13~~. There shall be storage space for each child's belongings, including personal toilet articles (such as comb, toothbrush, washcloth, towel).

M ~~14~~. There shall be clean clothing changes for each child.

N ~~15~~. There shall be a coordination of the day care program so that the same outdoor areas are not used simultaneously by older children when infants are crawling and toddlers are playing. Unless adults are supervising on a one-to-one basis, infants and toddlers shall use only equipment of appropriate size.

5.7 ~~16~~ STAFFING

A ~~16~~ STAFF RATIOS:

Ratios of day care staff to children shall be maintained at all times as follows:

CHILDREN'S AGE	STAFF
3 months to 2 years	1 adult to 4 children

B ~~17~~ STAFF MEMBERS:

a. Each staff member shall provide written references of previous successful experience(s) in work with young children, as an employee or volunteer.

b. Each staff member shall present evidence of a negative tuberculin test taken within 30 days prior to employment by the day care facility and every 2 years thereafter.

5.5 ~~5.5~~ STAFF TRAINING

A day care facility serving infants and toddlers shall provide a minimum of one week of staff training before the center will be approved for licensing and shall provide in-service training at least three times a year.

5.6 ~~5.6~~ HEALTH

A day care facility serving infants and/or toddlers shall:

A ~~1.~~ Advise parent(s) or guardian(s) at the time of the child's enrollment of the center's health policies in respect to feeding, clothing, bathing and diaper-changing; the care of diapers, bed linen and training chairs; and the center's special safety precautions.

B ~~2.~~ Follow a schedule of health care according to specification of the State Department of Health:

a. Require the child's physical examination within sixty days after his/her admission to the center.

b. Require immunizations along with physical examinations at age 4 months, 6 months, 12 months, 18 months and 24 months.

C ~~3.~~ Refer children with persistent low-grade infections, or with any form of physical, mental or emotional problem(s), for immediate evaluation as soon as the condition is evident.

D ~~4.~~ Maintain an ongoing relationship with a private physician or public clinic for regular and emergency consultation.

*E* In addition to general health and safety requirements for all children, other requirements include:

1. A diapering station or shelf shall be adjacent to a sink.
2. An infant shall never be left unsupervised on a raised, unprotected surface.
3. A plastic basin or large sink shall be available for bathing children and cleaned after every use.
4. A fresh diapering surface shall be used for each child. A roll of paper towelling may be installed, or a clean towel, not reusable without laundering.
5. Extra clothing changes supplied by the parent(s) must be clean.
6. If parent(s) supply diapers and are responsible for laundering, soiled diapers and other clothes shall be rinsed immediately, kept separate from every other child's in plastic bags or lined, covered containers and sent home daily.
7. If the facility supplies diapers and is responsible for laundering, soiled diapers shall be rinsed immediately, placed in plastic lined, covered containers and removed daily for washing. The containers shall be cleaned and disinfected daily.
8. If disposable diapers are used, they shall be placed in a container with a tightly fitting lid and disposed of daily.
9. Clean crib linen shall be provided at least daily and when wet or soiled.
10. Staff shall wash hands before and after each diapering and before and after the feeding of each child.

11. Potties or training chairs shall be sanitized after each use.
12. All infant-toddler equipment in communal use shall be maintained in a sanitary condition.
13. The nursery temperature may not exceed 85 degrees in hot weather or be less than 68° Fahrenheit in cold weather.

5.7 G. NUTRITION

Day care facilities serving infants and toddlers shall feed the children according to written plans from physicians, clinics and parent(s) or guardian(s). The feeding of infants and toddlers shall be given special consideration. Specific requirements include:

- A 1. Information provided by health sources and parent(s) or guardian(s) concerning the child's eating habits, food preferences or special needs shall be considered in day care feeding schedules and menus.
- B 2. Children who cannot feed themselves shall be held or fed in infant seats or high chairs. (If possible, the feeding should be done by a staff person who is familiar to the child and who has been feeding the child regularly.) Children shall not be force-fed.
- C 3. Children unable to hold a bottle shall be held whenever the bottle is given. Bottles should not be propped.
- D 4. Self-feeding shall be encouraged. The child should sit at a table with peers whenever he is mature enough to eat in a social manner.
- E 5. Parent(s) should provide formula. However, the center shall assure that formula, bottles, nipples, and containers comply with the following:

(a) Formula shall be prepared at the child's home and placed in an assembled bottle unit prior to being brought to the center.

(b) Formula and milk needing refrigeration shall be properly refrigerated. Formula shall not be stored longer than 24 hours after opening. It should be labeled as to the contents, date of opening, and the specific child for whom its use is intended.

(c) Each bottle and nipple supplied by a parent shall be used for a single feeding only and then returned to the parent.

(d) Formula and milk left in a bottle shall be discarded at the end of the day. Bottles should not be left on floors or in playpens to pass from one child to another.

*F* ~~*8*~~. Water shall be offered at intervals to infants and toddlers.

*5.8* ~~*A*~~. SAFETY

A child's environment shall be free of hazards. All precautions required in the regular licensing standards shall be met, as well as the following:

*A* ~~*H*~~ Equipment shall be checked to avoid the danger of a child's falling.

*B* ~~*Z*~~ Crib sides shall be secure and high enough to prevent accidents. (See C-3).

*C* ~~*Z*~~ Cots shall be sturdy and close to the floor.

*D* ~~*A*~~ High chairs shall be nontippable.

*E* ~~*S*~~ Staircases shall be gated.

*F* ~~*S*~~ Children in strollers or carriages shall be harnessed.

*G* ~~*A*~~ Small items which can be swallowed shall not be accessible to children.

5.9 *20* DEVELOPMENTAL NEEDS OF THE CHILDREN

There shall be staff interaction with children in a personal way in order to further stimulate physical, intellectual and emotional growth. Specific requirements include:

- A *20* There shall be frequent positive verbal communication between staff and children.
- B *20* There shall be eye-to-eye contact with the children.
- C *30* There shall be interaction with infants and young children in order to nurture perception and language development.
- D *20* There shall be physical stimulation for infants and toddlers through being held, rocked and played with, as well as through being dressed, bathed and carried; yet they shall be allowed some opportunities during the day when they can explore and learn on their own. Staff should handle infants in an unhurried manner.
- E *20* There shall be immediate attention to the physical needs of the child. No crying shall be ignored and no child shall be routinely left in a crib or playpen except for sleep or rest.
- F *20* A center shall arrange its staffing pattern so that each child has a primary caregiver to provide continuity of care, reassurance and consolation and establish and maintain behavior limits.

5.10 *20* RECORDS

A center shall maintain a continuing record for children up to 12 months of age in the following areas:

- A *20* Food intake

B 2<sup>l</sup> Sleeping patterns

C 3<sup>l</sup> Bowel movements

D 4<sup>l</sup> Developmental milestones, such as sitting and crawling. This information should be shared with the parent(s) on a frequent and regular basis.