

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

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

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

CITE AUTHORITY: WV Code §49-2B-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 19

TITLE OF RULE BEING PROPOSED: Family Day Care Home Registration Requirements

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


Authorized Signature

20-20

SCANNED

Brief Summary of the Rule

The purpose of this proposed rule is to establish minimum standards of acceptable care, protection, and supervision of children in family day care homes and to provide a uniform standard of enforcement statewide for monitoring of the self-certification of family day care homes. The rule addresses background checks, discipline, fire and environmental safety, health, sanitation, nutrition, equipment and program. It is intended to promote the health, safety, and well-being of children in family day care and to enhance their growth and development.

Statement of Circumstances Which Require the Proposed Rule

This is the first Family Day Care Home Registration Rule to be promulgated, as required by West Virginia Code §49-2B-1. Draft requirements have been used for family day care homes volunteering for registration for funding or referral purposes. This proposed rule updates the draft requirements, based on the most recent research on early education and care issues.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Family Day Care Home Registration Requirements §78-19-1

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

Agency: Office of Social Services
Department of Health and Human Resources

Address: 350 Capitol St. Room 691
Charleston, W. Va. 25301

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

2. Explanation of above estimates.

The Department currently has the full time equivalent of approximately 35 staff to regulate family day care homes affected by this rule. This rule would not incur any additional cost to the Department.

3. Objectives of this rule:

This rule establishes standards of family day care homes caring for fewer than six children. The rule is intended to protect the health, safety and well-being of children in family child care settings.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There should be no economic impact on State Government.

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

Costs will vary substantially but currently operating family child care homes should only incur an additional cost of less than \$50.00.

New family child care homes would need health and safety equipment at an estimated cost of \$230.00. In addition, providers caring for infants and toddlers would need infant equipment, such as beds, and safety gates at an additional cost of \$150.00.

Currently operating family child care homes would need a digital carbon monoxide detector at an average cost of \$40.00.

New family child care homes:	Carbon Monoxide Detectors	\$40.00
	Medical Exam	\$40.00
	Smoke Detectors	\$10.00
	Fire Extinguishers	\$15.00
	First Aid Supplies	\$20.00
	Toys	<u>\$100.00</u>
	Total	\$230.00

New family child care homes providing cares for infants and toddlers may incur an additional cost.

Cribs	\$100.00
Safety Gates	\$30.00
Miscellaneous	<u>\$20.00</u>
Total	\$150.00

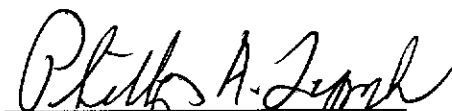
These costs are estimates and may vary with each family child care home.

C. Economic Impact on Citizens/Public at Large.

There should be no economic impact of the citizens at large.

Date: July 26, 202

Signature of Agency Head or Authorized Representative



**Paul L. Nusbaum, Secretary
Department of Health and Human Resources**

QUESTIONNAIRE

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

DATE: June 19, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

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

Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: Family Day Care Home Registratoin Requirements

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

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

June 19, 2002

b. What other notice, including advertising, did you give of the hearing?

Notice of the proposed rule will be sent to Child Care Resource and Referral

Agencies who will notify all registered family day care home providers in their

service delivery areas . Also, the rule will be posted online on the Office of

Social Services web site at <http://www.wvdhhr.org/oss/>.

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

July 19, 2002

d. Attach list of persons who appeared at hearing, comments received,

b. Date of hearing or comment period:

N/A

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

d. Attach findings and determinations and reasons:

Attached

WEST VIRGINIA DIVISION OF HUMAN SERVICES LEGISLATIVE RULES

TITLE 78, SERIES 19

FAMILY DAY CARE HOME REGISTRATION REQUIREMENTS

2002

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

RECEIVED

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SERIES 19
FAMILY DAY CARE HOME REGISTRATION REQUIREMENTS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§78-19-1. General.

1.1. Scope. -- This rule establishes minimum standards and procedures for the registration of family day care homes under the provisions of WV Code § 49-2B-1. et. seq., and related federal and state codes. The WV Code is available in public libraries and on the WV State Legislature's web page at <http://www.legis.state.wv.us/>.

1.2. Authority. -- WV Code § 49-2B-4. et. seq.

1.3. Filing Date. --

1.4. Effective Date. --

§78-19-2. Application and Enforcement.

2.1. Application. This rule applies to any family day care home that operates in West Virginia.

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

§78-19-3. Definitions.

In addition to the following definitions, the definitions in WV Code §49-2B-2 are applicable to this rule.

3.1. Approved Training. - Instruction or training approved by the Secretary or provided by a trainer approved through or sponsored by the West Virginia State Training and Registry System (STARS).

3.2. Caregiver. - The person primarily responsible for child care in the family day care home.

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

3.4. Child Care or Day Care. - The services performed by a caregiver for a part of a day outside the child's home in relation to the child's physical, emotional, psychological, social and personal needs. Responsibility for the care and protection of the child are delegated by the parent and assumed by the caregiver.

3.5. Core Competencies of Early Childhood Educators. - Skills and knowledge that represent common standards of practice in the early childhood field in areas including health, safety, environment, physical development, cognitive development, development of creativity, communication, self, social, guidance, families, program management, and professionalism, as listed in Appendix 78-19 A of this rule.

3.6. Corrective Action Plan. - A written agreement between the Department and the family day care home when deficiencies are identified during an inspection or investigation of a complaint, that includes the plan and time frame for correction.

3.7. Criminal History Background Check. - A fingerprinting process that identifies a person who has been arrested or convicted of criminal behavior.

3.8. Department. - The West Virginia Department of Health and Human Resources.

3.9. Disinfect. - Eliminate most germs from a contact surface through the use of chemical disinfectants or heat, according to Appendix 78-19 B of this rule.

3.10. Infant. - A child less than twelve (12) months of age.

3.11. Parent. - A parent by blood, marriage or adoption, or a legal guardian or other person standing in loco parentis.

3.12. Relative. - Grandparent, great grandparent, aunt, uncle, great-aunt, great-uncle, or adult sibling.

3.13. Revocation. - The termination of a certificate of registration when a family day care home fails to maintain the minimum requirements established by the Department under this rule.

3.14. Sanitize. - Remove filth or soil and small amounts of certain bacteria. For a contact surface to be considered sanitary, the surface must be clean and the number of germs reduced so that disease transmission is unlikely.

3.15. Secretary. - The Secretary of the Department of Health and Human Resources or his or her designee.

3.16. School-Age Child. - A child age five (5) years to thirteen (13) years of age.

3.17. Self-Certify - To submit a checklist indicating the results of a personal assessment by the caregiver of compliance with the requirements of this rule.

3.18. Statement of Criminal Record. - A signed declaration of criminal convictions, arrests, indictments, and authorization to allow a criminal history background check.

3.19. Substitute. - An individual who cares for children when the caregiver is absent and is responsible to the caregiver.

3.20. Toddler. - A child between the ages of twelve (12) and twenty-four (24) months.

3.21. Universal Precautions. - Procedures for infection control, as listed in Appendix 78-19 C, to use in all situations to prevent the transmission of blood borne germs that may be spread through blood and body fluids that might contain blood.

§78-19-4. Certificate of Registration Information

4.1. Application for Registration.

4.1.a. Initial. An initial certificate of registration is issued to a family day care home upon application and self-certification of compliance with this rule.

4.1.b. Renewal. An application for renewal of a current certificate of registration shall be made at least thirty (30) days before expiration of the certificate.

4.2. General Requirements.

4.2.a. A family day care home shall be registered under the name of only one caregiver per residence;

4.2.b. A family day care home shall be located in the residence of the caregiver.

4.2.c. A family day care home shall operate no longer than eighteen (18) consecutive hours in a twenty-four (24) hour period; and

4.2.d. A family day care home shall self-certify compliance with the provisions of this rule.

4.3. Departmental Action on Applications for Registration.

4.3.a. Within sixty (60) days of receipt of an application for certificate of registration, the Secretary shall provide a written decision to the family day care home that does one of the following:

4.3.a.1. Issues a regular certificate of registration if the family day care home certifies compliance with all of the requirements of this rule;

4.3.a.2. Issues a provisional certificate of registration if the family day care home is temporarily unable to certify compliance with all of the requirements of this rule; or

4.3.a.3. Denies a certification of registration if the family day care home does not certify substantial compliance with all of the requirements of this rule.

4.4. Terms and Conditions of Registration.

4.4.a. A certificate of registration is not transferable to another family day care home.

4.4.b. A certificate of registration applies only to the family day care home at the location identified in the application.

4.4.c. A family day care home shall show its certificate of registration to parents and the public upon request.

4.4.d. A record of all substantiated complaints against registered family day care homes and subsequent corrective action shall be maintained by the Department, and made available to parents and the public upon request.

4.5. Types of Certificates of Registration.

4.5.a. A regular certificate of registration is valid for a period of two (2) years from the date of issuance unless revoked or modified to a provisional status.

4.5.b. A provisional certificate of registration is valid for six (6) months from the date of issuance, may be reissued no more than two (2) times, and is contingent on a plan of correction approved by the Secretary.

4.6. Limitations on a Certificate of Registration.

4.6.a. The Secretary may place limitations on a certificate of registration based on findings:

4.6.a.1. Of insufficient space in the home.

4.6.a.2. Of inadequate sleeping areas.

4.6.a.3. Of the provision of other home-based services, such as foster care and adult family care; or

4.6.a.4. That require a corrective action plan approved by the Secretary.

4.6.b. The limitations may apply to:

4.6.b.1. The age, sex and type of problems of children in care;

4.6.b.2. The intake of additional children; or

4.6.b.3. The total number of children in the home.

4.7. Waivers and Variances.

4.7.a. A family day care home may request a waiver or variance of any requirement in this rule if:

4.7.a.1. The health, safety or well-being of children in the home is not adversely affected; and

4.7.a.2. The rule does not prohibit a waiver or variance for the requirement.

4.7.b. The request for a waiver or variance shall be in writing, addressed to the Secretary, and shall include the following information:

4.7.b.1. The specific requirement to be waived or varied;

4.7.b.2. The reasons for seeking a waiver and why a specific requirement should not be applied in a particular circumstance; and

4.7.b.3. The reasons for seeking a variance and how compliance with a specific requirement of this rule can be accomplished in a manner different from that set forth in W. Va. Code §49-2B-1 et. seq., or in this rule.

§78-19-5. Inspection and Investigation.

5.1. A caregiver shall allow a reasonable on-site monitoring inspection by the Department.

5.2. The Department may conduct inspections with or without advance notice.

5.3. During inspections, the caregiver shall provide access to the premises and to all aspects of the family day care home operation, including the children in care and the household members.

5.4. A family day care home shall ensure that its records are available in easily accessible files for inspection.

5.5. A family day care home shall cooperate in the investigation of complaints against the home.

§78-19-6. Caregiver, Substitute and Household Member Requirements.

6.1. General Requirements.

6.1.a. The Caregiver shall be:

6.1.a.1. At least eighteen (18) years of age; and

6.1.a.2. Able to read and write.

6.1.b. The caregiver or substitute shall ensure that alcoholic beverages or illegal substances are not used and that no one present in the home is under the influence of such substances during the time children are in care.

6.1.c. The caregiver, substitute and all household members shall keep information about children in care and about the families of the children confidential, except for required reporting to the Department.

6.2. Health Requirements.

6.2.a. The caregiver shall obtain a medical examination and a tuberculosis screening within thirty (30) days of application and upon renewal of application. Medical examinations may be completed up to six (6) months prior to application or renewal.

6.2.b. If an investigation determines a caregiver or household member may have a physical, mental or emotional condition that could negatively impact the care of children, the caregiver shall provide a current physical or psychological exam report by a licensed mental health professional or licensed physician assessing the condition and its impact on the provision of care for children, which will be used by the Department to determine whether to continue, deny or place limits on the certificate of registration.

6.2.c. The family day care home shall maintain a record of current medical examinations.

6.3. Training Requirements.

6.3.a. A caregiver shall complete eight (8) hours of approved training annually according to the following guidelines:

6.3.a.1. Two (2) hours of health or safety training;

6.3.a.2. Six (6) hours of training in at least three (3) other core competency areas, listed in Appendix 78-19 A of this rule.

6.3.a.3. Within six (6) months of registration a caregiver shall obtain approved training in basic first aid that includes rescue breathing and choke saving. Such training may count as the two (2) hours of health and safety training required in Paragraph 6.3.a.1. for that year.

6.3.b. A family day care home shall maintain a training record with certificates of attendance for training completed during the registration period.

6.4. Background Checks.

6.4.a. At the time of application and renewal for registration, a caregiver and each adult household member shall sign:

6.4.a.1. A statement of criminal record.

6.4.a.2. A consent to check Department records for child and adult abuse and neglect.

6.4.b. The Secretary shall not grant a certificate of registration to a family day care home if the

caregiver, or household member:

6.4.b.1. Is currently under indictment or charged with any crime;

6.4.b.2. Is on parole or probation for a felony; or

6.4.b.3. Has been convicted of any of the following crimes:

6.4.b.3.A. Abduction;

6.4.b.3.B. Violent felonies including, but not limited, to rape, sexual assault, felonious physical assault or felonious battery;

6.4.b.3.C. Child or adult abuse or neglect;

6.4.b.3.D. Exploitation of or harm to a child or incapacitated adult;

6.4.b.3.E. Domestic violence or spousal abuse;

6.4.b.3.F. Felony arson;

6.4.b.3.G. Felony drug-related offenses within the last ten (10) years;

6.4.b.3.H. Felony Driving Under the Influence (DUI) or Driving While Intoxicated (DWI) convictions within the last ten (10) years;

6.4.b.3.I. Hate crimes as described in W.Va. Code §61-6-21;

6.4.b.3.J. Murder;

6.4.b.3.K. Pornography involving children or incapacitated adults;

6.4.b.3.L. Purchase or sale of a child;

6.4.b.3.M. Sexual offenses including but not limited to incest, sexual abuse, or indecent exposure; or

6.4.b.3.N. Other crimes that the Secretary determines may pose a risk to children.

6.4.c. A family day care home shall not be issued a certificate of registration unless the Secretary grants a waiver.

6.4.d. A waiver may be considered if the household member has:

6.4.d.1. A felony conviction other than those listed in Paragraph 6.4.b.3;

6.4.d.2. Two (2) or more misdemeanor convictions;

6.4.d.3. A substantiated incidence of maltreatment, child or adult abuse or neglect; or

6.4.d.4. An unreported conviction.

6.4.e. The family day care home shall report arrests, charges, indictments, and convictions of caregivers and household members to the Department within twenty-four (24) hours of their occurrence.

6.5. Supervision of Children.

6.5.a. A caregiver shall be physically present at the family day care home, and within sight or hearing of all children in care.

6.5.b. A caregiver shall frequently observe children in cribs and playpens.

6.5.c. When supervising outdoor play, a caregiver shall remain outdoors with the children when:

6.5.c.1. There is a pool, pond, hot tub, pail, or other body of water; or

6.5.c.2. There are children six (6) years of age or younger present.

6.6. Family Day Care Home Capacity.

6.6.a. A family day care home shall have no more than six (6) children in care under thirteen (13) years of age at any one time. No more than two (2) of the children may be under twenty-four (24) months of age.

6.6.b. The number of children in the family day care home includes:

6.6.b.1. Children under six (6) years old who live in the home; and

6.6.b.2. Children under six (6) years old who are visiting and not accompanied by a parent or a responsible adult.

6.7. Substitutes.

6.7.a. Substitutes shall be reliable and at least eighteen (18) years of age.

6.7.b. The caregiver may use a substitute to provide care for children during emergency situations, illness and during occasional non-emergency situations such as vacations, child care training, and medical appointments.

6.7.c. The caregiver shall notify parents in advance when he or she plans to use a substitute for non-emergency situations.

6.7.d. In emergency situations the caregiver shall require the substitute to notify parents.

6.7.e. The caregiver shall require the substitute to notify parents in emergency situations.

6.7.f. The caregiver shall use a substitute for no more than two (2) consecutive full weeks annually or more than an average of eight (8) hours weekly.

§78-19-7. Home Safety Requirements.

7.1. Home Requirements.

7.1.a. A family day care home shall have the following utilities:

7.1.a.1. Heat, electricity, indoor plumbing, and a working telephone

7.1.b. A family day care home shall meet the following requirements:

7.1.b.1. Bathrooms are equipped with a sink that has hot and cold running water and an operating toilet;

7.1.b.2. Kitchens have a sink that has hot and cold running water, a working stove for cooking and a working refrigerator;

7.1.b.3. Interior doors that lock from the inside can also be unlocked from the outside;

7.1.b.4. Floors, walls, ceilings, steps, railings, doors, windows and furnishings in the home are kept clean and in good repair;

7.1.b.5. Windows or artificial lighting supplies sufficient illumination for children's activities;

7.1.b.6. A working flashlight that is available in the home for emergency lighting; and

7.1.b.7. A minimum of thirty-five (35) square feet of indoor space per child. This space does not include hallways, bathrooms or rooms not intended for or approved for children's use.

7.2. Safety Barriers.

7.2.a. All indoor or outdoor stairways, hallways, and exits shall be unobstructed except for safety barriers.

7.2.b. Stairs of four (4) or more steps shall have hand railings when children under age five (5) years are

in care.

7.2.c. Safety gates shall be provided at the top and bottom of stairs when infants and toddlers are in care.

7.2.c.1. Accordion expansion gates are prohibited.

7.2.c.2. Pressure mounted gates shall not be use at the top of a set of stairs.

7.2.d. Balconies, decks, porches, ramps, play or living areas that are elevated more than thirty-six (36) inches shall be equipped with secure, child-proof railings and barriers.

7.3. Hazards.

7.3.a. Family day care homes shall:

7.3.a.1. Keep children from areas undergoing remodeling or construction.

7.3.a.2. Store cleaning supplies, detergents, aerosol cans, pesticides, poisons, flammable materials, poisonous or unknown plants, medicines, alcoholic beverages or toxic materials out of the reach of children under six (6) years of age.

7.3.a.3. Store hazardous materials separately from food items.

7.3.a.4. Store guns, ammunition, hunting knives, bows and arrows, and other weapons in a locked cabinet or closet, in an area inaccessible to children.

7.3.a.5. Keep strings and cords long enough to encircle a child's neck (6 inches or more) out of children's reach.

7.4. Emergency Exits.

7.4.a. Rooms used by children, except bathrooms, shall have at least two (2) exits;

7.4.b. All levels of the home used by children shall have two (2) unobstructed outside exits. The second exit from a room and from a level may be a window;

7.4.c. Windows used as exits shall be located no more than forty-four (44) inches from the floor; and

7.4.d. A basement used by children shall have a door that exits directly to the outside.

7.4.e. In apartment buildings, where two exits are not available from the apartment, safe and continuous passageways, aisles or corridors that provide two exits shall serve to meet the requirements of 7.4.b.

7.5. Electrical Safety.

7.5.a. Electrical cords shall be maintained in good condition;

7.5.b. Extension cords shall be heavy duty UL listed, and not run under carpets or rugs nor through common walkways, unless stabilized to prevent tripping; and

7.5.c. Protective covers shall be installed on all unused electrical outlets accessible to children who are under five (5) years of age.

§78-19-8. Fire Safety.

8.1. Evacuation Plan.

8.1.a. A family day care home shall develop and post a written plan for emergency evacuation of the children from the home.

8.1.b. The evacuation plan shall include a drawing of the primary and secondary exits from all areas of the house and meeting places for the children once they have exited the home.

8.1.c. A family day care home shall conduct monthly fire evacuation drills and maintain a written record of when they are conducted.

8.2. Heating and Cooling

8.2.a. Heating devices that require ventilation shall be vented to the outside;

8.2.b. Unvented gas heaters may be used as a supplemental source of heat when all of the following requirements are met:

8.2.b.1. A properly functioning digital carbon monoxide detector has been installed in a central location in the home; and

8.2.b.2. The heater is equipped with an oxygen depletion sensor that automatically shuts the heater off if a hazardous level of carbon monoxide accumulates.

8.2.c. Non-flammable protective barriers, guards or screens shall be installed around wood burning stoves, open fireplaces, and unvented heaters to protect children from burns and flames and to prevent access;

8.2.d. Electric space heaters are allowed if they are UL approved, stable, and inaccessible to children;

8.2.e. Kerosene heating stoves shall not be used while children are in care;

8.2.f. Heating equipment and hot water tanks shall be kept clear of combustible materials;

8.2.g. Hot water tanks shall be equipped with a pressure relief valve and in an area inaccessible to

children.

8.2.h. Family day care homes shall use air conditioning or fans that are either adequately shielded or out of children's reach when temperatures exceed 80 degrees Fahrenheit.

8.3. General Fire Safety.

8.3.a. One (1) working smoke detector shall be installed on every level of the home.

8.3.b. Digital carbon monoxide detectors shall be installed in all residences that use gas appliances, fireplaces, pellet or wood-burning stoves, natural gas, oil, or propane heating systems.

8.3.c. Smoke detectors and carbon monoxide detectors shall have working batteries installed at all times.

8.3.d. Detectors shall be checked frequently and batteries replaced semi-annually to insure proper functioning.

8.3.e. An ABC-rated multi-purpose fire extinguisher shall be available in the home at all times.

§78-19-9. Environmental Safety.

9.1. Tobacco Use.

9.1.a. A caregiver shall notify parents in advance if anyone in the home smokes or uses smokeless tobacco.

9.1.b. A caregiver shall provide a smoke-free environment while children are present.

9.1.c. While the children are present, smoking is prohibited everywhere inside the home and outside in play areas

9.1.d. Smoking is prohibited when the children are in vehicles with the caregiver.

9.1.e. All tobacco products, ashtrays, butts, ashes, spittoons, lighters, and matches shall be kept out of the children's reach.

9.2. Pets and Animals.

9.2.a. A family day care home shall:

9.2.a.1. Keep documentation available on site of rabies vaccinations for all cats and dogs kept on the premises.

9.2.a.2. Confine animals that are sick, aggressive, or injured in an area not accessible to the children.

9.2.a.3. Keep litter boxes out of areas used by children and away from food preparation areas.

9.2.a.4. Keep pets such as birds, ferrets, reptiles, or wild animals in an area of the home or the premises that is not accessible to children.

9.2.b. If an animal bites a child and the skin is broken, the caregiver shall notify the parents immediately and notify the Department within twenty-four (24) hours.

9.3. Play Areas.

9.3.a. A family day care home shall provide for outdoor play space within reasonable walking or driving distance from the home.

9.3.b. Play areas shall be free from unsanitary or hazardous items, trash receptacles, burning facilities, abandoned cars, appliances, farm animals, animal waste, debris, combustible rubbish, unsafe toys, open sewage, chemicals, exposed roots, open or abandoned wells, tires, and any other hazardous items or conditions.

9.3.c. Outdoor play equipment shall be safe, in good repair, and free of sharp edges and protruding parts.

9.3.c.1. Anchored play equipment shall not be placed over, or immediately adjacent to, hard surfaces.

9.3.c.2. All outdoor activity areas shall be maintained in a clean and safe condition by removing debris, dilapidated structures, broken or worn play equipment, building supplies, glass, sharp rocks, twigs, toxic plants, and other injurious materials.

9.3.d. Trampolines shall not be accessible to the children in care.

§78-19-10. Health, Sanitation, and Nutrition.

10.1. Health.

10.1.a. A caregiver shall:

10.1.a.1. Observe the children daily upon their arrival, and note signs of illness or injury.

10.1.a.2. Promptly report accidents, suspected illnesses, or exposure of a child to a communicable disease to parents.

10.1.a.3. Isolate a sick child from the other children.

10.1.b. A caregiver shall obtain written permission from parents to administer non-prescription and prescription medication according to the following guidelines:

10.1.b.1. Non-prescription medication shall be administered according to a written schedule, with information about dosages and times provided by the parents.

10.1.b.2. Prescription medication shall be stored in original containers clearly labeled with the child's name, dosage, date, and name of medication and shall administer the medication according to the label.

10.1.c. The caregiver shall maintain a record of each child's health examinations and immunizations according to the following guidelines:

10.1.c.1. A general medical examination for children who have not yet reached their sixth (6) birthday is obtained within six (6) months prior to or thirty (30) days following admission to the home.

10.1.c.2. Children's medical examination records are updated annually.

10.1.c.3. Immunization records are completed and updated according to the schedule recommended by the Department.

10.1.c.4. If immunizations are not current, a schedule for completion is obtained for the provider's files.

10.1.c.5. A family day care home shall not require immunization records for children whose parents provide written documentation of religious objections, or when immunizations are contraindicated due to a medical condition documented by a physician.

10.2. Sanitation.

10.2.a. The home shall have sufficient safe water for drinking, hand washing, and other household needs.

10.2.b. The home shall have safe drinking water available to the children at all times.

10.2.c. If a family day care home uses water from sources other than a regular municipal water supply, it shall be tested annually for compliance with water quality requirements of the West Virginia Department of Public Health.

10.2.d. The caregiver and the children shall thoroughly wash their hands with soap and water for at least ten (10) seconds any time they are soiled, including at the following times:

10.2.d.1. Before eating;

10.2.d.2. Before handling or preparing foods;

10.2.d.3. After contact with animals;

10.2.d.4. Before and after diaper changing, assisting a child with toilet use, personal bathroom use, and;

10.2.d.5. When the caregiver or the children come into contact with blood or bodily fluids containing blood.

10.2.e. The caregiver shall employ universal precautions for protection from disease and infection, as detailed in Appendix 78-19 C of this rule.

10.2.f. The caregiver shall store food and drinks in closed containers and refrigerate as needed.

10.2.g. To ensure the cleanliness of the home the caregiver shall:

10.2.g.1. Cover garbage cans with lids, maintain them in a sanitary manner with liners, and empty daily;

10.2.g.2. Clean bathroom facilities used by the children daily and when soiled, as listed in Appendix 78-19 B of this rule;

10.2.g.3. Clean dishes in a dishwasher or in hot water and detergent. If they are washed by hand, they shall be rinsed thoroughly and allowed to air dry;

10.2.g.4. Maintain the home and furnishings in a safe and sanitary condition to prevent accidents and illnesses;

10.2.g.5. Ensure that it is free of rodent or insect infestation; and

10.2.g.6. Ensure doors and windows that are left open have screens.

10.3. Nutrition.

10.3.a. Children shall receive nutritious meals and snacks, served in a sanitary manner and in amounts adequate to meet their nutritional needs, as detailed in 78-19 D of this rule.

10.3.b. Children are encouraged, but not forced to eat.

10.3.c. Children who do not require a highchair shall be seated comfortably at a table when meals and snacks are served.

§78-19-11. Water Safety.

11.1. Pools and Hot Tubs.

11.1.a. The caregiver shall prohibit the children's use of wading pools, inflatable pools, and hot tubs.

11.1.b. A caregiver shall enclose in-ground swimming pools with a fence at least four (4) feet high.

11.1.c. A caregiver shall equip above ground pools with the following:

11.1.c.1. Entry gates and ladders that remain locked when the pool is not in use;

11.1.c.2. A fence that encloses the pool and is at least four (4) feet high; or

11.1.c.3. A fence manufactured strictly for above ground pools that extends at least two (2) feet above the pool with a locking ladder attached;

11.1.d. The caregiver shall ensure that any pools used by the children have working filtration systems and are maintained to prevent development of bacteria and algae.

11.1.e. A caregiver shall equip hot tubs with a hard cover.

11.2. Water Play.

11.2.a. A caregiver shall make sure that the children involved in swimming activities are supervised by an adult swimmer.

11.2.b. When a caregiver takes children to swimming areas outside the home, the caregiver shall:

11.2.b.1. Obtain prior written permission from the parents;

11.2.b.2. Supervise the children at all times; and

11.2.b.3. Ensure that life guards are present.

§78-19-12. Emergency Practices.

12.1. Emergency Information.

12.1.a. A family day care home shall ensure that written emergency information is available near the telephone within easy access of the caregiver, children, and substitutes that contains numbers for the following:

12.1.a.1. Police and fire departments;

12.1.a.2. The child abuse and neglect hotline;

12.1.a.3. Ambulance service;

12.1.a.4. A poison control center;

12.1.a.5. Parent's work and home phone numbers;

12.1.a.6. Numbers for each child's doctor; and

12.1.a.7. An emergency substitute, if applicable.

12.1.b. Emergency information for each child and parental permission forms for emergency medical treatment are obtained prior to a child's placement in the home, maintained in the providers records, and updated when information changes.

12.1.c. Emergency information for each child includes emergency contacts, family information, permission to seek medical treatment, and permission to transport the child.

12.1.d. Emergency consent forms shall be notarized.

12.2. First Aid Supplies.

12.2.a. A family day care home shall keep the following first aid supplies available in a portable container and ensure they are out of children's reach.

12.2.b. First aid supplies shall include:

12.2.b.1. A thermometer;

12.2.b.2. Disposable gloves;

12.2.b.3. Blunt tipped scissors;

12.2.b.4. Tweezers;

12.2.b.5. Bandage tape;

12.2.b.6. Sterile gauze;

12.2.b.7. Non-medicated adhesive strips;

12.2.b.8. Sealed packages of alcohol wipes or antiseptic;

12.2.b.9. Soap;

12.2.b.10. Syrup of ipecac; and

12.2.b.11. A first aid guide.

12.2.c. A family day care home shall administer syrup of ipecac only upon instructions from a poison control center or a licensed physician.

§78-19-13. Transportation.

13.1. General Transportation.

13.1.a. When transporting children the caregiver shall:

13.1.a.1. Notify parents in advance when activities are planned that require transportation;

13.1.a.2. Make sure the children's emergency consent forms are carried in the vehicle in case of accident or illness;

13.1.a.3. Accompany children on activities that require transportation;

13.1.a.4. Ensure the driver transporting the children has a valid driver's license; and

13.1.a.5. Ensure the vehicle used to transport the children is maintained in safe running condition, with insurance and a current inspection sticker.

13.2. Child Safety During Transportation.

13.2.a. A family day care home shall ensure that:

13.2.a.1. Children three (3) years of age and under are secured in an approved child safety seat, as required by W. Va. Code §17C-15-46;

13.2.a.2. Children over three (3) years of age are secured in individual seat belts, as required by W. Va. Code §17C-15-46; and

13.2.a.3. Children do not share seatbelts.

§78-19-14. Program and Equipment.

14.1. Daily Routine.

14.1.a. A family day care home shall post the daily routine.

14.1.b. The daily routine shall be appropriate to the ages of the children in care and include:

14.1.b.1. Specific meal times;

14.1.b.2. Naps times for children who need them;

14.1.b.3. Indoor play time;

14.1.b.4. Outdoor play time on days when temperatures are forty (40) degrees and above, weather and circumstances permitting;

14.1.b.5. A balance of active and quiet play; and

14.1.b.6. Time to learn self-help skills, such as hand washing, brushing teeth, dressing and toileting.

14.2. Program.

14.2.a. A family day care home shall implement a program that:

14.2.a.1. Is appropriate to the ages and stages of development of children in care; and

14.2.a.2. Enhances the healthy growth and development of children.

14.2.b. A family day care home shall select toys, equipment, and activities referenced in the resource tables in Appendix 78-19 E of this rule. Examples include:

14.2.b.1. Art and craft activities, music, games, puzzles and books;

14.2.b.2. Building blocks;

14.2.b.3. Outdoor play equipment, such as balls and riding toys;

14.2.b.4. Dress up clothes for dramatic play;

14.2.b.5. Manipulative toys;

14.2.b.6. Large muscle equipment; and

14.2.b.7. Science materials.

14.2.c. A family day care home shall ensure that age-appropriate books are read on a daily basis to children between the ages of six (6) months and five (5) years of age.

14.3. Equipment.

14.3.1. A family day care home shall ensure each child has an appropriately-sized place to rest, such as a crib, playpen, bed, cot, sofa, or mat with clean individual bedding; and

14.3.2. Toys and equipment used by the children are non-toxic, safe, sturdy, easy to clean and free of hazards, as in Appendix 78-19 E of this rule.

§78-19-15. Guidance and Discipline.

15.1. Guidance.

15.1.a. The caregiver and parents shall discuss and agree upon positive methods of guidance that encourage a child's acceptable behavior.

15.1.b. The caregiver shall use guidance that helps the children understand appropriate behavior and is appropriate to their ages.

15.1.c. A family day care home shall have rules that are fair, consistent, and relevant to the children's ages.

15.1.d. A family day care home may use a time out that lasts no more than one (1) minute for each year of a child's age only for the purpose of helping a child regain control.

15.2. Discipline.

15.2.a. A caregiver, household member or substitute shall not use any of the following harmful forms of discipline:

15.2.a.1. Punishing a child physically including spanking, hitting, kicking, biting, shaking, swatting, thumping, pinching, popping, shoving, spitting, or other cruel treatment;

15.2.a.2. Punishing or threatening a child in association with food, sleep, rest, or toilet training;

15.2.a.3. Putting anything in or on a child's mouth as punishment;

15.2.a.4. Confining a child in a closet or locked room or using physical restraints for confinement;

15.2.a.5. Using loud, profane, or abusive language or threats of physical punishment;

15.2.a.6. Punishing a child psychologically including public or private humiliation, shaming, and negative remarks about the child or child's family;

15.2.a.7. Punishing a child emotionally including rejecting, terrorizing, ignoring, or isolating; and

15.2.a.8. Allowing a child to discipline other children.

15.2.b. A caregiver shall not seek or accept parental permission to use any punishments or acts prohibited in this rule.

§78-19-16. Infants and Toddlers.

16.1. Equipment.

16.1.a. A family day care home:

16.1.a.1. Shall provide infants and toddlers under the age of two (2) years with a crib, port-a-crib, or playpen that has no more than two and three-eighths ($2 \frac{3}{8}$) inches between slats, side, or end panels and;

16.1.a.2. Shall not allow infants or toddlers to sleep on any type of adult bed or sofa;

16.1.a.3. Shall not place soft pillows or stuffed animals in infant beds during sleep or nap times;

16.1.a.4. Shall not allow the use of mobile walkers;

16.1.a.5. Shall ensure that high chairs, infant swings, playpens and cribs are safe and in good working condition; and

16.1.a.5. Shall disinfect toys and play equipment used by infants and toddlers after each use. For resource tables see Appendices 78-19 B and E of this rule.

16.2. Feeding and Care.

16.2.a. A family day care home caring for infants and toddlers shall:

16.2.a.1. Keep milk and formula under refrigeration at all times;

16.2.a.2. Offer water to infants and toddlers several times daily;

16.2.a.3. Hold infants six (6) months of age and younger while bottle-feeding. Bottle propping is prohibited;

16.2.a.4. Hold infants and toddlers with special needs over six (6) months of age while bottle-fed until they are able to hold their own bottles securely;

16.2.a.5. Ensure that infants and toddlers participate in activities outside of cribs or playpens;

16.2.a.6. Hold, cuddle, talk to, sing to, and respond to the particular needs of infants and toddlers; and

16.2.a.7. Place an infant who is unable to turn over independently on his or her back to sleep unless medical documentation prohibits sleep in that position.

16.3. Diapering and Toilet Training.

16.3.a. A caregiver caring for children in diapers shall:

16.3.a.1. Use a clean non-porous surface or pad for diaper changing and shall clean it after each use;

16.3.a.2. Have sufficient quantities of clean diapers available; and

16.3.a.3. Change diapers when soiled and dispose in a closed container that is emptied daily.

16.3.b. A family day care home caring for a child who is toilet training shall:

16.3.b.1. Discuss and agree with parent's on a schedule for toilet training; and

16.3.b.2. Empty and sanitize potty chairs after each use.

§78-19-17. Night Time Care.

17.1. Sleeping.

17.1.a. A family day care home providing night time care:

17.1.a.1. Shall not place mats or sleeping bags directly on the floor for overnight sleeping;

17.1.a.2. Shall provide the children with clean linen, pillows, and additional coverings as needed for comfort;

17.1.a.3. Shall be awake while the children are awake and sleep only when all the children are asleep; and

17.1.a.4. Shall ensure that only children of the same family and sex sleep together in the same bed.

17.2. Bathing.

17.2.a. When bathing a child, the caregiver shall:

17.2.a.1. Discuss bathing arrangements with the child's parents;

17.2.a.2. Provide age appropriate bathing facilities for children for overnight care;

17.2.a.3. Supervise a child under six (6) years of age while bathing;

17.2.a.4. Equip bathtubs and showers with safety devices to prevent slipping or falling; and

17.2.a.5. Provide soap, clean water, clean individual wash cloths and towels for each child.

§78-19-18. Parent Involvement.

18.1. Responsibilities.

18.1.a. A family day care home shall maintain all completed parental forms required by the Department, including emergency information and medical forms, on file.

18.1.b. The caregiver shall require parents to review and sign daily sign in and out sheets to document the time all children are in care.

18.1.c. A family day care home shall keep records on file for two (2) years.

18.1.d. The caregiver shall work with parents, the school system, The Birth to Three Program, and other providers to plan for a child's transition to other programs.

18.2. Rights.

18.2.a. The caregiver shall give parents an opportunity for pre-enrollment visits to discuss services and requirements of the family day care home as well as the needs of the family and children.

18.2.b. The caregiver shall give custodial parents immediate and unlimited access to their children in care, and follow these guidelines:

18.2.b.1. The caregiver shall release the children only to the individuals listed on the parent's emergency consent form; and

18.2.b.2. The caregiver shall require identification before releasing a child to someone unknown to the caregiver.

§78-19-19. Required Reporting to the Department.

19.1. A family day care home shall immediately report suspected child abuse or neglect to the Department in accordance with W. Va. Code §49-6A-1, et seq.

19.2. A family day care home shall immediately report to the Department any accidents or illnesses resulting in emergency treatment, hospitalization, or the death of a child.

19.3. A family day care home shall report the following within seventy-two (72) hours;

19.3.a. An adult added to the household so statements of criminal record, child abuse and neglect history can be completed;

19.3.b. Major damage to the home caused by fire, flood, or storms; and

19.3.c. A change in address.

§78-19-20. Enforcement Action.

20.1. This rule may be enforced by revocation of a certificate of registration, or by immediate closure, or both, in accordance with W. Va. Code §§49-2B-11 and -12.

§78-19-21. Administrative and Judicial Review.

21.1. In accordance with the provisions of W. Va. Code §49-2B-13, a family day care home may seek an administrative review of a decision made by the Secretary by requesting a hearing within thirty (30) days of receiving the notice of the decision.

21.2. A family day care home may also seek immediate relief from the decision of the Secretary by a showing of good cause made by verified petition to the circuit court of Kanawha County or the circuit court of the county where the home is located.

Appendix 78-19 A

WEST VIRGINIA CORE COMPETENCIES

It is implicitly understood that these competencies are necessary to promote the optimal development of all children, including those with special needs, and that activities and environments should be adapted to accommodate each child's learning modality and style.

Health

- Is familiar with what diseases require exclusion of children; what diseases require isolation of children in attendance; and what diseases and conditions can be included in the regular classroom;
- Models and promotes good health and nutrition habits;
- Provides environment that contributes to the prevention of illness;
- Nurtures children's developing identity and feelings of self-worth;
- Integrates health care activities into the curriculum;
- Can identify symptoms of common early childhood illnesses;
- Provides for nutritional needs of children as specified under USDA; and
- Can demonstrate effective procedures to prevent the spread of disease.

Safety

- Provides a safe environment to prevent and reduce injuries;
- Is attentive to children's activities;
- Has skills and knowledge to prevent injuries and handle emergencies and injuries appropriately when they occur;
- Has formal training and up-to-date Certification in First Aid for children, including rescue breathing; and
- Recognizes indicators of child abuse and neglect and understands legal responsibility to report suspected child abuse.

Environment

- Appropriately addresses issues of space, social relationships, materials and routines in setting the environment;
- Promotes warm, positive, nurturing and respectful interactions among providers, children and families.
- Creates an interesting, secure and enjoyable environment that encourages play, exploration and learning;
- Supports a broad array of experiences;
- Establishes a reliable routine;
- Maintains an appropriate adult/child ratio; and
- Encourages visits and participation by parents and includes families as partners in the provision of services.

Physical Development

- Provides a variety of equipment, activities and opportunities to promote the physical development of children;
- Provides for physical development, including large and small muscle strengthening, coordination and control;
- Recognizes, respects and accommodates wide differences in individual rates of physical development;
- Demonstrates an understanding of patterns and stages of a child's physical growth; and
- Observe and discusses with parents and notes in writing any unusual patterns of growth or unusual behavior that might be related to physical capability.

Cognitive Development

- Provides activities and opportunities that encourage curiosity, exploration and problem-solving;
- Uses developmental criteria and understanding of learning styles in working with children;
- Responds to children's interests by providing new learning opportunities;
- Responds to children's questions with information and enthusiasm;
- Respects the relationship of cognitive development with other areas of development (physical, social and emotional);
- Demonstrates an understanding of patterns and stages of a child's cognitive growth; and
- Understands and can explain to parents the ways in which each of the activities for children contribute to cognitive development.

Development of Creativity

- Provides opportunities that stimulate children to play with sound, rhythm, language, materials, space, ideas in individual ways;
- Supports and respects children's expression of creative abilities;
- Encourages spontaneous expression; and
- Expands children's imaginations.

Communication

- Communicates verbally and non-verbally with other staff to create a well-functioning team;
- Models good communication skills;
- Provides opportunities and support for children to understand, acquire and use verbal and non-verbal means of communicating thoughts and feelings;
- Provides ample opportunity for children to listen, interact and express themselves freely with other children and adults; and
- Demonstrates an understanding of patterns and stages of a child's language development.

Self

- Provides physical and emotional security for each child;
- Helps each child to know, accept and take pride in himself/herself;
- Helps children develop independence;
- Demonstrates and encourages respect for and valuing of cultural, racial, gender, socio-economic and physical ability differences;
- Supports child's self-esteem by providing opportunities for children to master new abilities, to experience success and safely make mistakes;
- Helps children find their own ways to handle increasingly challenging tasks;
- Demonstrates an understanding of patterns and stages of a child's self-growth;
- Recognizes each child as a unique person and establishes a caring relationship; and
- Recognizes each child's identity as part of a family and works in partnership with parents.

Social

- Helps each child feel secure and accepted in the group;
- Helps children learn to communicate and get along with others;
- Encourages feelings of empathy and mutual respect among children and adults;
- Integrates multi-cultural/anti-bias themes, literature and experience in all curriculum areas;
- Demonstrates an understanding of patterns and stages of a child's social development; and
- Demonstrates the ability to facilitate the development of group cooperation among the children and to contribute to a feeling of community and family supportiveness in the program as a whole.

Guidance

- Provides a supportive environment in which children learn and practice appropriate and acceptable behaviors;
- Provides consistent limits and realistic expectations;
- Clearly and positively defines expectations;
- When setting expectations, takes into account each child's development and needs;
- Supports children's efforts to independently resolve their own problems;
- Discusses guidance with parents and makes sure that children understand any differences in approach between the home and the program; and
- Demonstrates ability to use positive methods of guidance rather than punishment.

Families

- Supports the family's role as primary Caregiver and teachers of their children;
- Respects and supports each child's cultural, racial and socio-economic background;
- Creates and maintains open, friendly, cooperative relationships with each child's family;
- Encourages each family's involvement in the program in a variety of ways, responsive to each family's situation;
- Supports the child's relationship with his/her family;
- Respects the diverse values of families;
- Individualizes referrals to community resources for families;
- Recognizes children and families with emotional distress, abuse and neglect and provides avenues of assistance.
- Establishes regular communication with parents to gain needed information about the child's life outside the program and give parents needed information about the child's play; and
- Generates opportunities for the program and parents to collaborate.

Program Management

- Works cooperatively with co-workers and families;
- Has a systematic approach to organizing, planning and keeping records;
- Delegates responsibility;
- Uses all available resources to ensure effective operation;
- Keeps accurate records of needs, plans and practices; and
- Observes and records children's behavior, makes plans based on observed needs.

Professionalism

- Makes decisions based on knowledge of early childhood theories and practices;
- Promotes quality in child care services;
- Takes advantage of opportunities to improve competence;
- Continues to set new goals, takes initiative;
- Works to resolve issues and problems cooperatively and respectfully;
- Advocates for quality child care;
- Develops relationships with other child care professionals for support and information exchange; and
- Is familiar with and assists families in accessing available community resources.
- Joins professional organizations and plays responsible role.

Appendix 78-19 B
DISINFECTANT AND SANITIZING SOLUTION

!!!Remember to mix fresh solution daily!!!				
To disinfect diaper changing tables and other hard surfaces:				
¼ cup bleach	to	1 gallon of water	=	800 ppm
2 tablespoons (1 oz.) bleach	to	½ gallon of water	=	800 ppm
	to	1 quart of water	=	800 ppm
2 teaspoons (1/4 oz.) bleach	to	1 pint of water	=	800 ppm
To sanitize cots, tables, counters and toys:				
1 tablespoon (½ oz.) bleach	to	1 gallon of water	=	200 ppm
2 teaspoons (1/4 oz.) bleach	to	½ gallon of water	=	200 ppm
1 teaspoon (1/8 oz.) bleach	to	1 quart of water	=	200 ppm
½ teaspoon bleach	to	1 pint of water	=	200 ppm
To sanitize dishes & utensils:				
2 teaspoons (1/4 oz.) bleach	to	1 gallon of water	=	100 ppm
<p>!!!Dishes and utensils must be submerged in sanitizing solution for at least one minute!!! Example: If sink will hold 3 gallons then mix 6 teaspoons bleach to 3 gallons of water. Mix fresh with each dishwashing – the solution should be replaced when the bleach concentration falls below 50 ppm.</p>				
Measurement Equivalent:				
1 teaspoon	=	1/8 fluid ounces		
2 tablespoons	=	1 fluid ounce		
1 cup	=	8 fluid ounces		
1 pint	=	16 fluid ounces		
1 quart = 2 pints	=	32 fluid ounces		
1 gallon = 4 quarts	=	128 ounces		
<p>Pollutants and trace minerals are often reported in units called ppm. What is a ppm?</p> <p><i>Part per million; 1 gram in 1 million grams of material</i></p>				

Appendix 78-19 C
Universal Precautions

Spills of body fluids (i.e., urine, feces, blood, saliva, nasal discharge, and injury or tissue discharge) shall be cleaned up immediately as follows:

For spills of vomit, urine, and feces: walls, bathroom, table tops, toys, kitchen counter-tops, and diaper-changing tables shall be cleaned and disinfected.

For spills of blood or blood-containing body fluids and injury tissue discharges, the area shall be cleaned and disinfected. Gloves shall be used in these situations unless the amount of blood or body fluid is so small that it can easily be contained by the material used for cleaning. If disposable gloves are used, they shall be discarded immediately and hands washed.

Persons involved in cleaning contaminated surfaces shall avoid exposure of open sores or mucous membranes to blood or blood-containing body fluids and injury or tissue discharges by using gloves to protect hands when cleaning contaminated surfaces.

Mops shall be cleaned, rinsed in sanitizing solution, wrung as dry as possible and hung to dry.

Blood-contaminated material and diapers shall be disposed of in a plastic bag with a secure tie.

Appendix 78-19 D
MINIMUM MEAL PATTERN PLAN FOR CHILDREN

Meal	1-2 Year Old	3-5 Year Old	6-12 Year Old
Breakfast			
Milk, fluid	½ cup	¾ cup	1 cup
Juice or fruit	¼ cup	½ cup	½ cup
Cereal or bread product	Choose one of the following		
- Enriched or whole grain	½ slice	½ slice	1 slice
- Cold, dry cereal or	¼ cup	1/3 cup	¾ cup
- Cooked cereal	¼ cup	¼ cup	½ cup
- Cooked pasta or noodle	¼ cup	½ cup	¼ cup
Midmorning or midafternoon snack (the following choices are recommendations only)			
Milk, fluid; or juice; or fruit;	½ cup	½ cup	1 cup
Cereal or bread	Choose one of the following		
- Enriched or whole grain	½ slice	½ slice	1 slice
- Cereal	¼ cup	1/3 cup	¾ cup
Lunch or Supper			
Milk, fluid	½ cup	¾ cup	1 cup
Meat and/or meat alternate	Choose one of the following		
- Meat, poultry or fish	1 ounce	1 ½ ounce	2 ounces
- Cheese	1 ounce	1 ½ ounce	2 ounces
- Cooked dry beans	¼ cup	3/8 cup	½ cup
- Peanut butter	¼ tbsp.	3 tbsp.	4 tbsp.
- Egg	1 egg	1 egg	1 egg
Vegetables and fruit - 2	¼ cup	½ cup	¾ cup
Bread and bread alternates	Choose one of the following		
- Enriched or whole grain	½ slice	½ slice	1 slice
- Cooked pasta or noodle	¼ cup	¼ cup	½ cup
- Cooked cereal grains	¼ cup	¼ cup	½ cup
- 1 pound of meat or cheese meets minimum serving for:	16 children	11 children	8 children
Recommended Daily Dietary Allowances of the National Research Council/National Academy of Sciences			

APPENDIX 78-19 E

Resource Tables for Section 13 of this rule.

The following tables suggest examples of play equipment, types of toys, and materials that can be used with children of different age groups. All activities and equipment need to be suited to a child's age and stage of development. Toys for infants and toddlers should be sturdy, have no sharp points or edges, have no loose parts that could be swallowed or block airways, and be painted with non-toxic paint.

Table A: Equipment and Materials for Infants

Type of Materials	Types of Supplies and Equipment
Music, Art and Dramatic Play	Wrist or ankle bells; rattles; adult operated tape or cd player with assorted music; musical toys designed for infants; musical mobiles; banging materials that are simple and light weight; secured infant mirrors; play telephones; soft washable dolls, animals and puppets; simple toys with wheels or rollers.
Blocks and Manipulative Play	Soft and textured blocks, disks or keys on a ring; squeeze toys; teething toys; interlocking rings; large connecting blocks, large hollow blocks; jumbo pop beads; nesting cups, stacking toys; simple peg boards; boxes.
Language and Science	Picture books; toy telephones; adult operated recordings, tapes, discs and players; photographs; textured surfaces; floating toys; sponges; spoons and scoops.
Large Muscle Equipment	Low, soft or padded climbing platform for crawlers; infant activity gym; foam or soft plastic balls; simple push toys; secure swings designed for infants.

APPENDIX 78-19 E

Resource Tables for Section 13 of this rule.

Table B: Equipment and Materials for Toddlers

Type of Materials	Types of Supplies and Equipment
Music, Art and Dramatic Play	Well secured unbreakable mirrors; adult operated tape or cd player with assorted music accompanied by simple body and finger movement; hand bells, xylophones, drums, toddler pianos/keyboards; non toxic art supplies such as play-dough and large crayons; finger paints; large paint brushes used with washable paint on paper; washable markers; kitchen play sets, tool play sets; hats, capes, purses, shoes, boots; play telephones; soft dolls, animal figures, puppets; simple wheel toys such as cars and trains with large wheels or rollers.
Blocks and Manipulative Play	Large connecting blocks, large hollow blocks, large wooden blocks; jumbo pop beads; nesting cups; simple peg boards, simple puzzles; simple threading toys; mobile pull toys; simple dial, key and button toys; pop-up boxes; boxes.
Language and Science	Picture books, touch-me books, simple rhyming books, books for lap reading; toy telephones; adult operated recordings/tapes/discs and players; photographs; water play toys, scoops and containers.
Large Muscle Equipment	Low, soft or padded climbing platforms and slides; riding/rocking toys that are feet propelled; foam or soft plastic balls; gym mats; play tunnels; push toys; secure swings designed for toddlers.

APPENDIX 78-19 E

Resource Tables for Section 13 of this rule.

Table C: Equipment and Materials for Children age 2-5 years

Type of Materials	Types of Supplies and Equipment
Music, Art and Dramatic Play	Bells, cymbals, drums, tambourines, sand blocks, triangles, rhythm sticks, keyboards, blowing instruments; rattles; adult operated tape or cd player with assorted music; non toxic art supplies such as play-dough, large crayons and finger paints; large paint brushes used with washable paint on paper; washable markers; glue sticks; chalk; sponges; adjustable easel; colored construction paper; blunt end scissors; unbreakable mirrors; dress-up and role playing materials; masks; housekeeping equipment; play house; doctor kit; doll equipment; play scene sets with people figures and animal figures; puppets; train and car sets.
Blocks and Manipulative Play	Connecting blocks, large hollow blocks, hardwood unit blocks and accessories; nesting cups, stacking toys; pop beads; peg boards, puzzles; threading toys; boxes; shape sorters; matching games; mosaic blocks.
Language and Science	Picture books, easy to read along books or beginning reader books, pop-up books; hidden pictures; child oriented magazines; child dictionary; tape/cd players and recorders; photographs; beginning computer software; aquariums; terrarium; sandbox and play equipment; water play equipment such as cups, droppers, floating toys, containers; magnets; magnifying glasses; collections such as rocks and shells; simple gear and lever devices; simple math games.
Large Muscle Equipment	Low climbing platforms and slides; riding and rocking toys; foam or soft plastic balls; sports balls of all sizes matching the age of child; jump rope; flying disks; gym mats; play tunnels; push and pull toys that look like adult equipment; low child swings; stable ride on equipment.

APPENDIX 78-19 E

Resource Tables for Section 13 of this rule.

Table D: Equipment and Materials for School Age Children

Type of Materials	Types of Supplies and Equipment
Music, Art and Dramatic Play	Tape, cd or karaoke player/recorder; variety of music; assorted musical instruments such as hand bells, xylophones, drums, pianos/keyboards; art supplies such as clay, paints, paint brushes, markers, yarn, scissors, glue, colored pencils, variety of art paper, chalk, scraps of material, beads, common household items for art construction; weaving materials; models; mirrors; dress-up and role playing materials; masks; housekeeping and gardening equipment; play house, tent, grocery store, work shop; doctor kit; culturally diverse dolls; doll equipment; play scene sets with people figures and animal figures; puppets;
Blocks and Manipulative Play	Small interlocking blocks; log builder sets; wood blocks and accessories; geometric interlocking blocks; materials for detailed construction of models; jig-saw puzzles and 3-D puzzles.
Language and Science	Story books; chapter books; tape recorders; cameras; computer programs; games and books that require problem solving; games based on words; matching games; beginning strategy games; globes; maps; aquariums; terrarium; gardening; magnets; magnifying glasses; collections such as rocks and shells; ant farms; child microscope.
Large Muscle Equipment	Music for movement; sports balls and equipment for beginning team play; target activities; complex climbing structures such as ladders and ropes; hula hoops; jump rope; outdoor running and tagging games.

Comments and Responses

Public Comments Received Concerning the Proposed Rule Family Day Care Home Registration Requirements 78 CSR 19

A thirty (30) day public comment regarding the proposed rule, Family Day Care Home Registration Requirements, 78 CSR 19, was held beginning June 19, 2002 and ended July 19, 2002. Thirty-three (33) commentaries were received. The Department of Health & Human Resources (DHHR) has elected to make several changes based on these comments to clarify the intent of this rule. The following comments are listed and categorized below. The DHHR has listed responses to each comment and has specifically listed the details of any changes to the rule.

General Comments

Comment: There are some providers in our area that did not know about the proposed changes. Are local R & R (Mountainheart) notified only providers that take state-subsidized children. Any provider that takes only private children were not notified.

Response: It was the intent to notify all family day care providers about the proposed rule through the Child Care Resource and Referral agencies. Unfortunately, due to a problem with our computer program, those providers who do not participate in the subsidy system did not get notices. We are working to correct this problem for future notices. However, over 95% of registered family day care providers do receive subsidies. In addition, we notified various provider organizations and posted the proposed rule on our web site in order to reach the majority of interested providers and parents.

Comment: This letter is a representation of our Day Care Association in the Eastern Panhandle. There are over 300 day care providers in this area, and although they are not all members of our association, we all have the same concerns about the day care regulations and some of the new proposed ones. Due to this late date, we agreed that we should write one letter because multiple letters would not receive the proper attention.

We hope that you take our concerns very serious and take the time to read our letter. We work very long hours for very little pay and we feel we are being taken advantage of. We get very little respect as professionals. This is why there is such a turnover of providers. You must be dedicated to do this job, and the ones that last truly are. These children are our future and we as providers have a very large part in molding and shaping them to be responsible adults. There should be more consideration on how providers are being treated. For many of us, this is our livelihood.

Without us, parents could not work and many more of them would be dependent on the state for assistance. Day care should be high up on the law makers list. We are all aware of how far behind West Virginia's child care policies are, but some of the new proposed policies are not creating a better solution for day care providers. They are adding more restrictions on us. It seems that the

lawmakers want us to be more structured and formal with our family daycare. We are not facilities and centers and thus, we should not be treated as such. They receive more pay per child than we do. Parents put their children in family daycare because they want their child/children to remain in a home atmosphere while they are at work. If they wanted a structured school setting, they would have put them in a center or preschool.

We would like for you to review the day care policies of our state and see where some changes could be made. Changes that are very overdue. A lot of the providers are not willing to take subsidized children for what we are being paid. If we were allowed to have more than six children, they were could use the extra spaces to accommodate the overlap. We feel that we are just as capable as women and men in other states to care for more than six children. We have good people that monitor us and can tell if we are not doing our job correctly. Also parents will complain when things are not as they should be.

We would like to thank you for your time and ask you review our concerns. This is a very serious matter and it needs your attention.

Comment: I have spent 2 hours reading thru these proposed rules and I haven't been able to finish so I printed them out. What I read was very informative and what I felt "needed guidelines". I hope that all family daycare providers will have to meet the guidelines and that all the monitors in the state will be diligent in enforcing this regulations.

Comment: I am a Family Day Care Provider in Taylor County. I have been a provider for twenty-four (24) years. I enjoy providing care for children. I usually watch children of all ages. I provide care during the evening hours and on weekends. I try to maintain a safe environment for children in my home. As a rule, I am certain rules my change year after year. I attend many of the health and safety trainings being offered in my county. I feel day care homes are important because parents have such varying hours and it is difficult for them to find child care. Thank you for allowing me to voice my comments.

Comment: The new family child care rules were easy to read and gave some good guidance for quality child care. The changed requirements for training will be very helpful.

Response: Family day care providers are an extremely valuable part of the child care system in West Virginia. Approximately half of the children in the Department's subsidy system are served by family day care providers. They need to be able to operate in a manner that allows them to maintain a homelike atmosphere in a safe environment, and make a profit with their businesses. The child care specialists who monitor family child care also provide a very important function, as they carry the responsibility for protecting child in care. Advocates work to constantly move the system toward improvements and increased quality.

Often, these interests are competing. Different groups and individuals have their own goals and priorities which lead to differing opinions on how much protection is needed to assure that children are not harmed in care. According to Carolynne Stevens in *Regulating Human Care and Service Programs*, "reasonable people with the same knowledge base may disagree about how much is enough." The Department received comments from providers that the Rule is too stringent as well

as comments that increased requirements are a welcome improvement. At the same time, regulators and advocates submitted pages of recommendations for additional requirements.

While developing the rule as well as including changes based on comments, the Department followed the basic guidelines provided in Chapter 49, Article 2B, of the West Virginia Code, which is the state statute governing the regulation of child care. The law clearly mandates that providers shall not be “over-encumbered” by requirements and that “the extent of regulation...be moderately proportionate to the size of the facility.” In addition, a primary purpose of the law is “to ensure that all child care programs be safe, reliable, and geared to the ages and needs of the children they serve, met basic health and safety standards, and employ people who have the training and experience needed to work with children.” Family day care is registered, which is a self-certification process that requires less oversight than licensing or certification.

When there were conflicting comments or disagreements about a requirement, the Department relied heavily on *Caring for Children, National Health and Safety Performance standards: Guidelines for Out-of-Home Child Care Programs*, comparisons of rules from other states, and expert advice from other state offices such as the State Fire Marshal and the Division of Public Health.

Comment: I offer a suggestion that when similar terminology is used throughout the various registration /certification/licensing requirements that the terminology be “standardized”. As an example: in the Family Day Care Home Registration Requirements the term “Corrective Action Plan” is defined in 3.6. In the Day Care Centers Licensing section 3.40 and Family Day Care Facility Certification Requirements Section 2.8 the term “Plan of Correction” is used.

Comment: Consistency between the “core competencies” requirements is also suggested. In the Family Day Care Home Registration Requirements these core competencies are defined in Section 3.5 and an Appendix with further details is attached. The Day Care Centers Licensing document defines them in Section 3.11 but does not provide a reference to appendix 78 - 1 A which details them further.

Response: The three rules have been written at different times by different people. The Department has made an effort to use similar terminology and intent when regulating the same issues. However, since the three rules regulate different sizes of facilities which require different structures and numb of regulations, it would be impossible to make the numbering correspond between documents.

Comment: What is STARS? Where is it located on the WVOSS Website? Does it include colleges and universities that offer courses in child development? If it does no, why? Working toward a college degree is surely equivalent to (or superior to) an “Apprenticeship” program or WV training certificate, evidenced by the requirements of college credit/degree by a Day Care Center Director.

Response: STARS is the state’s professional development and career lattice system for early care and education professionals. The web site has not been updated to include the most recent

information on STARS. Participation in STARS is not required in the Rule.

Comment: A person who operates a family day care home should also be given the flexibility to attend college courses at an accredited college as a substitute for Dept of Labor courses or WV training courses.

Response: The rule does not require participation in a particular training system or course of study. College courses that address the core competencies meet the training requirement.

Comment: There should be a change in the way notices are sent to providers such as: 1)A notice sent when a parent is being reviewed. 2)A notice sent if parent is given a certain amount of time to come up with the proper information to continue their certificate 3)A notice sent when the parent fails to meet that deadline 4) A notice when the case is definitely closed OR still eligible.....otherwise the provider should be paid for services rendered during the month that this review was going on and agency can collect the pay from the parent. Providers should not have to hassle a parent for services rendered. It is time consuming and causes a lot of mental stress on a person caring for children and causes a parent to not bring the child back to that provider, which in turn causes the provider to lose out financially. Being certified means being tied to NOT demand a deposit from these parents and so collecting the pay should be up to the agency.

Also a copy of a parent's certificate who has been approved should be sent by the agency and not left up to the parent to give to the provider and not left up to the provider to force them to bring it. Too many reviews are given to parents even though they are suppose to be every six (6) months. Parents are told they have to personally hand all their pay stubs and such to the agency and can not mail anything. Parents who are reviewed right before a change by the agency in parent fees and then dragged back into review a month later discourages the parent into giving up. Welfare people need encouragement and this system has caused one individual to quit her job because of the hassle from the agency. How many others are put through this forever running some proof to the agency in order to keep their child care provider and keep a job?

Comment: I would like to know who to report fraud to if you know someone is getting money for taking care of children they are family with and they claim their watching the children more days than they really watch them, or while other people have them they claim their watching them. They also forge the mother's name saying they watched them instead of having her sign her own name each time. I am a tax payer and I believe people need help but I think it is unfair for people to use this program to just bleed the tax payers of money and then not do there job like the rules says. I want to know who to report this matter to. I have reported this matter to the Office in the county its happening in and they never even check it out, but they tell the person I'm reporting that I made a complaint about it cause they will call me and tell me they were told that I reported them and I thought that was suppose to be kept between the Office and the person who reported the matter to them. Thank You.

Comment: If there is reasonable cause to believe that providers are committing fraud (for example, parents who give us written statements that their children were not in care during time periods for which the provider is billing), we should be able to suspend the provider's service until an

investigation is completed by IFM.

Comment: Day care providers for non-traditional hours are needed but the increase in pay for those hours were taken away from providers due to budget cuts. There is no incentive for us to care for children during the non-traditional hours. Some of us still watch children during these hours, despite the fact that we no longer get paid extra for it. With all the new welfare reforms and parents not needing day care before, but now do. Placing children in extended hours day care is becoming increasingly difficult. What is happening is children are being turned away, and when they can not be placed with a certified provider, they are being left at home with an older sibling or someone much too young to have that type of responsibility. Sometimes parents do not have the choice because of the lack of certified caregivers providing non-traditional hours.

Comment: I run a top notch family daycare at a greater expense than what I get in return money wise. I also take Mountainheart children and I lose money on these children. The state should pay more to the providers that are producing programs for their children. I spend more time and money on educational material and toys than I collect in fees. Perhaps the state needs to cater to the providers that produce a quality daycare, whether private pay or state reimbursed, so that these individuals don't become so overwhelmed by the guidelines and quit due to the financial losses they incur. I love what I do. I love my children. I am also investing in their futures at a financial loss to myself. I take tremendous pride in my efforts. These children deserve the best that the parents, providers, and our state has to offer. I know that everything boils down to money....so please stop cutting the budget for children. I can not endure the financial loss and eventually I, too, may have to get out of daycare without the states help for providers. Cutting the budget removes mothers from work, because providers cant take the losses either, so they drop the Mountainheart children.

Response: There were a number of comments about the child care subsidy system policies. This rule does not cover these policies. A state child care plan related to expenditure of federal funds and operation of the subsidy system is completed every two years and placed for public comment. The next plan will be available for comment in June 2003. The plan will be placed on our web site, with announcements in the CCR&R newsletters. Providers are encouraged to review and comment on the plan.

While the State Child Care Plan sets rates for subsidy payments, the cost of providing care is related to this rule. At the current time, rates are established at the 75th percentile. This means that subsidized parents can purchase care in 75% of family day care homes at the rate charged to private parents. The 75th percentile is established through a market rates survey conducted every two years. In addition, the fiscal note for the Rule shows that the additional requirements will not require a substantial cost to providers

Comment: When a home, provider, is closed by WVDHHR for cause, there should be mandatory closure periods. A good rule would be to bring the "sanctions" in line with other services, i.e. 1st Sanction (Closure for Cause) mandatory 30 days, 2nd Closure a Mandatory 60 days, 3rd and subsequent closures 1 year. This should also correspond to repayments by providers.

Response: The current law does not allow sanctions or penalties for family day care providers.

When compliance with the rule is achieved, a certificate or registration must be issued. For serious violations that result in harm children and result in revocation, subsequent applications may be denied.

Comment: I see way too much responsibility is left upon the provider who already has a lot to do to stay certified such as: classes, first aid, paper work, food program classes and paper work, and don't forget taking care of children all day and night and keeping the home clean and up to regulations.

Response: A provider is operating a business and all businesses and services require paper work. It is voluntary to participate in the Child and Adult Food Program and subsidy system.

Comment: Fingerprinting at orientation would be helpful. It would better insure the safety of children. Providers with convictions would be found more quickly since we don't even get the CC-9's back for 30 days after orientation.

Response: Provider orientation training is only offered for subsidized providers. A department of Health & Human Resources child care specialist may attend provider enrollments to obtain fingerprints.

Comment: We feel that providers who take care of both subsidized children and private pay children should keep the same records on the private pay children. Those children should be signed in, should have emergency notification forms and medical forms but this is not specifically addressed in policy.

Response: Providers are currently required to maintain records on all children in care as indicated in this rule.

Comment: Buckets of water should be emptied to prevent a child from toppling in them and drowning. If not emptied, then they should be out of the reach of children age 3 and under.

Response: "Buckets" has been added to rule 6.5.c.1.

Comment: We have also heard that gel candy has been linked to several death's in children. Is often the shape of a small plug and children often suck it out of the package and it becomes stuck in their windpipe. Due to the consistency of the gel, it cannot be pulled with forceps. It is very sticky and children could choke to death. This type of candy should be prohibited in Family Day Care Homes.

Response: It would be difficult to identify and include all food with a potential to choke a child. This is why we have included choke saving as a training requirement.

Comment: Is the intent of this policy to allow substitutes to provide care in their unapproved

home? If so, why are we bothering to inspect homes? The substitute policy needs to specify that the care will only be provided in the provider's approved home.

Response: With a limited amount of Department staff it would be impossible to regulate and inspect substitute homes. Substitutes are only to be used on a very limited basis and parents are to be notified when use of a substitute is planned.

Comment: Do monitors check car insurance and Inspection Stickers? If so, this needs to be included on the checklist.

Response: Once the rule is promulgated a checklist will be developed indicating which requirements must be verified.

Comment: If the amount of training is to change, there should be more after hours training scheduled. Substitute providers for training are hard to find, if one of the trainings that Mountainheart or DHHR offers each month would be scheduled from 5-7 or 6-8 this would help with the people able to attend training, Since most seminars and training occur during business hours.

Comment: We are expected to upgrade our trainings that cost us money. Our local R & R that offer us trainings, only providing trainings during weekdays. This causes providers to pay for a substitute. West Virginia wants quality childcare. This is what we want to. Though, West Virginia is not willing to pay for it.

Comment: With regard to "required training" are there incentives and/or financial are available? I'm not aware of the cost, but for a Family home or facility with limited enrollment, thus limited income, the cost of such courses could become prohibitive or place undue hardship relating to the cost of the course, or time required to be spent out of their home taking the courses when it would be more beneficial for them to be caring for children. Are evening/weekend courses available in a variety of locations throughout the state?

Response: The CCR&R agencies offer free training and conferences at a variety of times and days. We will work with them to increase the amount of training offered in the evenings and on weekends. We also plan to explore long-distance classes and Internet training to improve access. Apprenticeship for Child Development Specialist classes are also available around the state in the evenings. Most of these courses are at no or minimal cost.

Comment: Who comprised the committee of family day providers and staff which devised this proposed rule?

Response: The Family Day Care Home Registration Rules committee consisted of staff from the Department of Health & Human Resources as well as representatives from area Child Care Resource & Referral Agencies, Food Nutrition Program, Head Start, State Fire Marshal's Office and Family Child Care Providers.

Comment: Is there a database of recited Family Day Care Homes & Facilities in WV? If so where the only ones I found were for licensed Day Care Centers. How often is the database updated?

Response: There is no public access to the family day care database. However, the CCR&R agencies provide information on available family day care homes at parents' request. **Note:** This comment is not related to the rule.

Specific Comments

Comment: I know that many states require providers to have a GED or High School Diploma and wondered if this was a consideration in updating the family child care rules?

Comment: Finally the State of West Virginia is waking up to the modern age. I provide child care in this state and was very upset at some of the things I was asked about when I was inspected. I am glad that caregivers will now be required to read and write. How else would children be read to. This is very important for their development.

Response: Each time rules are revised, the floor of quality is raised. In this proposed rule, the Department increased the requirement by mandating that providers be able to read and write. Since we know that the educational level of the caregiver impacts the quality of care, the Department plans to improve the training and professional development system toward credit bearing training. When the workforce becomes better trained, the requirement can be raised.

Comment: I don't agree with the smoking policy. If parents of all your children smoke and you ask them if it is OK to smoke around them and they give you permission then I think it should be OK.

Comment: Although it might not prove popular, I was very pleased to see that Family Day Care homes may be required to be smoke free facilities while children are in care!

Response: Countless medical studies conducted by the U.S. Environmental Protection Agency, international academic institutions, hospitals and other agencies have determined that exposure to secondhand smoke causes pronounced health effects in the average adult, but even worse impact on children, the elderly, asthmatics, and others whose health is already compromised. Under normal circumstances we cannot control what secondhand smoke exposure children experience while in the care of their parents, but we can control it through compliance of this Rule to protect the children from this health danger.

In conclusion, the Rule that prohibits smoking in the home and outside while children are present cannot be relaxed even with unanimous parental permission.

Comment: The rule that indicates if your child is over six (6) years of age you do not have to count, but if she has a friend over to play during daycare hours you have to count their friends. Why should you have to count them if your not getting paid for them and they are just friends playing together?

Response: Family Child Care Providers are responsible for all children in care regardless if the providers receives payment for such children.

Comment: I don't agree with all of the training requirements. I feel caregivers should not be required to have 8 hours of additional training!

Response: In ongoing efforts too improve the quality of child care training requirements are increased.

Comment: I am writing this comments in regards to the new regulations you are proposing to use. I have several reservations about the new rules. First about the 35 square feet of space. Who is going to pay for each family day home to add this space on to the house that they live in. My children with the furniture in the bedrooms do not have that much space. That is a 5x7 room per child. No home has that much space unless we live in a mansion. We do not get enough money to add a 5x7 room on to our homes per child.

Comment: One of the proposed regulation changes is the amount of square footage per child. They are proposing 35 square feet per child for family day care. This is the amount of square footage that facilities are supposed to have and again get paid more money for their subsidized children. If the amount of square footage is changed, this will cause a lot of quality day care homes to be closed. The existing square footage has worked out well. As long as the children are safe and the area is clean and there is room for the children to play and sleep at rest time, there shouldn't be any further changes on the providers amount of space. This should be at the discretion of the monitors to make that judgement.

Response: 35 square feet per child is the amount of space that is accepted nationally. The National Health and Safety Performance Standards suggest that a child's behavior tends to be more constructive when sufficient space is organized to promote the practice of developmentally appropriate skills. Crowding has been shown to be associated with an increased risk of developing upper respiratory infections.

Comment: On the notarizing of the forms. This cost money and must be done with both people present at the same time, this is seldom to be able to happen. I know that this could be used as a deduction, but this seems rather stupid when they are checked and copied and sent in to the DHHR office anyway.

Response: Parents may have emergency forms completed and notarized at no cost at a local Resource & Referral Agency. It is acceptable for copies of emergency forms to be mailed to Department so the child care specialist would not have to complete another home visit to determine if a provider is in compliance with this requirement.

Comment: I am also pleased to find that the issue of medication administration will be addressed with centers developing, implementing and maintaining policies and procedures when administering medication. However, I must question why that same 'best practice' concept of a proposed

medication administration policy was not added to the family day care home registration requirements? I feel that those requirements would be strengthened by adding the identical proposed medication administration policy that was so wisely added to the proposed day care centers rules. I would be appreciative of your comments.

Comment: Family Child Care Regulations - in some areas these need to be more comprehensive -particularly in the area of health and safety. Medication Administration needs to be comparable to the center licensing regulations . . . Medication Administration carries the highest liability of any activity carried out in child care and to protect both providers and children strong regulations and training in medication administration is required. I recommend that standards 15.4.h from the Day care Center licensing regulations be adopted for Family Care Providers. These are basic to safe administration and family care providers need to be aware of best practices in this area.

Response: Family day care rules do address administration of medication in sections 10.1.b. Since these homes care for fewer children, we feel the rules adequately address the issue.

Comment: The posting of the daily activities is something that means nothing. These things change every minute of every day. There is no way that this can be followed. The mood of each child, the weather, putting up a daily routine is ridiculous. It takes time to do this and with all the paper work we already have along with the classes and spending time with our family once our day care closes. We are not paid by the hour like some of you. You all have a life outside of your job, so why can't we. There is enough activity that goes on to keep every one busy. My views on these new rules probably does not matter, but as a mother I want to voice them. We are a family day care not a prison. We try to teach these children about life and family. We cannot set these teachings in motion, unless we have the means to do so.

Response: Daily routines give children a sense of control over the events of the day by planning a consistent routine that enables children to anticipate what happens next. A planned but flexible program allows children the opportunity to make decisions about their activities and fosters independence and creative expression.

Comment: I have five children in my care. How do you suggest I have a daily routine for all of them?

Response: Please contact your local CCR&R agency for assistance on how to establish a daily routine. You may work directly with the CCR&R trainer or Behavior Specialist on how to develop a daily routine for the children in care.

Comment: 3.5. Physical Development not listed as a core competency but is listed in Appendix A.

Response: This was added to the list of core competencies in rule 3.5.

Comment: 3.6. Corrective Action Plan -Does the term "agreement" in this regulation mean that it needs the signature of the provider? We suggest changing it to a written document, rather than a written agreement. You may also want to indicate that we use the FACTS generated CAP.

Response: Forms used for corrective action plans are not part of this rule. The Department will look at the current FACTS computer system to ensure this process is working correctly.

Comment: 3.13. We also revoke at the provider's request.

Response: Department staff do not revoke at the providers request. Providers may voluntarily relinquish the certificate of registration.

Comment: 3.16. A child between the ages of 5 and 13. Does this include ages 5 and 13?

Response: The rule allows children from age 5 to 13.

Comment: 3.18 The regulation should specify where the care by the substitute will take place. We have only looked at the house of the provider and that is the only place that has even had self-certification. To have the children stay somewhere else means that there has been no regulation at all. The provider should be required to notify the Child Care Specialist, who oversees her or his case, that a substitute is going to be used and the name of this person. I think any substitute should be subject to background checks at a minimum. It should be stated clearly in the regulations that any substitute's care only is provided in the provider's home or that the substitute's home has to be inspected and approved with the same standards we apply to any other child care provider's environment. In defense of this position, I suggest that regulations

If there is a true emergency with the provider's situation, then, obviously, the full measure of these suggestions may not be applicable. She or he may have to find someone to watch the children immediately. However, it has been my experience that most substitute situations involve prior knowledge of the provider's need to leave the home. At least two of the children's deaths, I am aware of, that occurred in approved child care situations involved inappropriate "substitute" care givers.

Response: With a limited amount of Department staff, it would be impossible to regulate and inspect substitute homes. Substitutes are only to be used on a very limited basis and parents are to be notified when use of a substitute is planned

Comment: 4.1.a. Add the word 'self' in front of the word 'certification'.

Response: Self-certification has been added to the requirement in this rule.

Comment: 4.1.b. Needs to specify what forms are needed to complete the renewal of a current certificate. Also the policy needs to specify who's responsibility it is to take the initiative in this re-application process. Should the specialist contact the provider or should the provider take that responsibility? We feel the provider should have the responsibility to contact a specialist to say that they would like to continue.

Response: The entire application packet would be required when completing a renewal

application. The additional comments are related to policy and not the specific rule.

Comment: 4.3.a.3. It's too late to call it a denial by the time we get the self-certification since they have 30 days to get that in to the specialist. By that time the provider has already been watching children for 30 days and expects to get paid. At that point, we have to open them in FACTS and then revoke.

Response: The Department must follow the current federal law guidelines allowing parental choice. Every initial provider application allows a self-certification process. Department staff have 60 days to determine compliance with these regulations. If the provider fails to meet these requirements the certificate is revoked. Providers must be paid for services rendered.

Comment: 4.4.a and 4.4.b. Should not allow the certificate of registration to be transferred to any other location or allow the provider to provide care in any location other than his or her home. Any other arrangement may put the child at unnecessary risk. If the Department is responsible for a child (and possibly paying for this child's care), then the Department should be able to substantiate the child's safety and location without delay.

Response: This rule specifically states the certificate of registration is not transferrable to another family day care home. Rule 19.3.c. requires caregivers to report a change in address.

Comment: 4.4.b. Change the statement to read applies only to the family day care home at the physical location. Many providers are using a mailbox and we don't know when they change houses.

Response: The current rule is sufficient.

Comment: 4.4.d. Should we include complaints made by the public. A lot of our complaints are not from the parents but are investigated, substantiated and are serious in nature.

Response: The rule has been changed to substantiated complaints.

Comment: 4.6. States the Secretary may place limitations on a certificate of registration based on findings of: 4.6.a.1 Insufficient space in the home.

4.6.a.2 Inadequate sleeping areas.

4.6.a.3 The provision of other home-based services, such as foster care and adult family care. I believe that this section should be amended to clearly state that if the Child Care Specialist finds any situation that she or he believes is potentially dangerous, e. g., construction in or around the home or other environmental hazards, that the certificate can be limited as stated in regulation.

Response: To change rules 4.6.a.1, 4.6.a.2, 4.6.a.3. would require changing the current law. Rule 7.3.a.1. requires caregivers to keep children from entering areas undergoing remodeling or construction.

Comment: 4.6.a.2. Define inadequate sleeping areas. Is that the number of bedrooms, the space there or the types of beds available and what type of bedding do we want for toddlers (over age 2)?

Response: This rule is already adequately addressed in rule 17.1 for night time care and in 14.3. under equipment.

Comment: 4.6.a.4. The corrective action plan approved by the Secretary. I believe that this section should be amended to clearly state that if the Child Care Specialist finds any situation that she or he believes is potentially dangerous, e. g., construction in or around the home or other environmental hazards, that the certificate can be limited as stated in regulation

Response: Any danger or hazard would be part of the corrective action plan and therefore the Department could place limitations on the certificate.

Comment: 4.6.b. Some situations cannot be rectified by a corrective action plan as the hazard is either permanent or not controllable by the provider.

Response: There needs to be a permanent remedy for any danger or hazard, even if the permanent remedy is a limitation to the certificate (i.e.) Not using a certain part of the yard, putting up a fence, etc.

Comment: 4.7. Can waivers be used for regulations in this 2002 packet? For example, waivers for trampoline or wading pool use?

Response: Waivers can be considered but only granted if the safety of children can be assured. From all the research conducted wading pools and trampolines pose too many health and safety risks.

Comment: 5.1. What are reasonable on-site monitoring inspections. Is there a specific time? If we have a provider who does overnight care and we have a complaint that the provider is having friends in to party and drink after the children are in bed, should we not be able to go out in the evening? Also is there a specific number of visits that is reasonable? We think this word, reasonable, should be removed.

Comment: 5.1. I think the use of the word, "reasonable," should be defined concretely. For example, I have been told by providers that even though they were providing many nights of overnight care, that I had no right to inspect their homes at these times they were providing care. "Reasonable" should be defined clearly to include all hours of care and any other issues that impinge on the quality and safety of their situation of child care. There should be no question that the safety of children, while in care, can be limited by the provider's wishes. Although §49-2B clearly states the service provider is not to be "over-encumbered by . . . regulation," it also gives equal weight to the "need for protection" for children in care.

Response: To eliminate reasonable would require changing the wording of the current law. Training will be provided for staff.

Comment: 5.3. In the assertion that the caregiver shall provide access to the premises and to all aspects of the family day care home operation. It needs to be stated clearly that an inspection must provide access to all rooms or buildings if the Child Care Specialist deems that necessary or that the refusal will result in closure or denial of certification. Many times I have been told that the provider does not have a key to a locked room or entire section of a house as I was conducting an inspection. When I have pressed them, their response is that child care is not provided in that area. However, I do not know if the room(s) truly are not accessible to children in care, even if they are not used for child care

Response: The caregiver shall provide access to all areas of the of the home has been included to this rule.

Comment: 6.1.a.2. We think the provider should not allow intoxicated visitors in the home while the children are in care.

Response: This rule has been edited to provide clarification.

Comment: 6.1.a.2. Could this rule also pertain to smoking while children are in care.

Response: Proposed rule 9.1 already addresses the issue regarding smoking.

Comment: 6.1.a.3. Exemptions to rule? i.e. R&R personnel, such as behavior specialist, mentor, trainer, when provider needs assistance.

Response: Confidentiality regarding R&R staff is addressed in each grant.

Comment: I think all adults in the providers home should have a medical that states they are also free of communicable diseases.

Response: This additional requirement is cost prohibitive for providers and their families. The requirement 6.2.b. allows the Department to require a household member to have a completed and updated current medical examination if an investigation determines they have a physical, mental, or emotional condition that could negatively impact the care of children.

Comment: 6.2.b. Requires a provider or family member to submit to a physical or psychological exam if needed. However, it does not specify what actions can be taken by the Department in light of the conclusions of the examiner. It should state that this assessment can be used to either deny or to place limitations on the certificate if the examiner believes this is appropriate.

Response: 6.2.b has been reworded.6.2.b. If an investigation determines a caregiver or household member may have a physical, mental or emotional condition that could negatively impact the care of children, the caregiver shall provide a current physical or psychological exam report by a licensed

mental health professional or licensed physician assessing the condition and its impact on the provision of care for children, which will be used by the Department to determine whether to deny, continue or limit the certificate of registration.

Comment: I think that it is wonderful that the State is now requiring CPR and first aid.

Comment: 6.3.a.1. How often do the providers need to have first-aid, rescue breathing and choke saving. A CPR card is usually good for one or two years.

Comment: 6.3.a.1. Does this count as a health and safety training for the year?

Comment: 6.3.a.1. Does this or could this also include CPR training?

Comment: 6.3.a.1 and 6.3.a.2 These should include the word annually. 6.3.a.3 does say annually.

Response: Although the rule requires first aid, including rescue breathing and choke saving, CPR certification is not mandated. This as a one-time only training requirement and does not mandate updated certifications. Rule 6.3.a.1. is required one time only. Annually has been included in rule 6.3.a.2, and 6.3.a.3.

Comment: I personally think a program from the American Red Cross (or American Heart Association) should be a requirement. The Red Cross is geared more toward the general public (white Am Heart Assoc is geared more toward health care workers). The Red Cross is specified in the Family Day Care Facility Certification Requirements.

Response: Cost and access are the reasons for a more general requirement for family day care. They are smaller than facilities with less money.

Comment: Will training be provided at no charge for required classes such as CPR and First Aid?

Response: CPR is currently not required. Providers can receive training free of charge through their local Resource and Referral Agency. However, some R&R agencies may charge a small fee if the training is provided through the American Red Cross or local EMS for the cost of certification and or materials. If this is the case providers can claim the cost on their income tax.

Comment: 6.3.a.3. How will this be tracked? Most of our training's contain several core areas. "After School Care", contains all of them. Are there plans to hire additional trainers, as this means twice as many per provider?

Response: Caregivers are required to keep documentation of all training completed. Caregivers are not limited to receive training solely from a Child Care Resource & Referral (CCR&R) agency. There are no plans to fund additional trainers. However, the Department plans to revise the training system to better meet needs.

Comment: 6.4.a.1 Since we are getting a new statement of criminal record at renewal, it would be good to do a new CIB at that time as well.

Response: The signing of the Statement of Criminal Record includes authorization for a criminal background check. This can be done at that time. Neither the rule nor the Office of Social Services policy governing background checks would prevent a check at two years. The child care program will recommend to the child care staff that a new CIB check be completed upon the second renewal of registration if circumstances do not indicate the need for one completed sooner.

Comment: 6.4.a.2. Why do we need consent to check the Department records? And if we do need consent, then we need to add that Failure to consent will result in denial or closure.

Response: In order to allow due process we must request consent to check all records.

Comment: 6.4.b.1. This states that we will not grant a certificate if the caregiver or household member is currently under indictment or charged with crimes. How can we verify this? This needs to read that we will not grant the certificate if the caregiver or household member has listed a current indictment or pending charges. The same thing applies to 6.4.b.2. We do not know before we issue a certificate except what the provider tells us. Also, how can we know anything outside of the state of WV? There is no number for us to call to find out if a potential provider has pending charges or is currently under indictment.

Response: The child care staff will act on the information provided on the Statement of Criminal Record or by the information made known through other means. Child care staff will follow the policy on obtaining out of state background information.

Comment: 6.4.b.3.G. "Felony Drug Offense in the last ten years" - I think this is a pretty serious offense and shouldn't be allowed at all for people having such direct contact with children.

Response: The requirement is stated in this manner so that the Department may take into consideration a person's rehabilitation. A person with a felony drug conviction would still be subject to a check of character and would need to request a waiver. The information required by policy to be provide in such a waiver request is extensive in order to help the Department make a decision. A written request for a waiver does not mean an automatic approval.

Comment: I think providers should have drug testing?

Response: This requirement would be too cost prohibitive for providers.

Comment: 6.5.c.2. This states that the provider must remain outdoors when children 6 & under are present. This leaves a lot of unsupervised children ages 7 and up. Maybe say something about older children and that they must stay in the confines of the yard or within sight of the home.

Response: In combination with 6.5.a. the current requirement is adequate.

Comment: 6.5.a. We feel that the provider should be giving direct supervision, and we think

direct supervision is not within sight or hearing, but physically present with the children. We have recently had a call that a provider was in the house with the 2 small children while 2 older children played outside. The provider says she could see the area where the children played. One of the older children fondled the other, leaving scratches on the genital area. We assume that the provider did not watch while this happened which says very plainly that she had no control or protective supervision of the children in her care.

Comment: 6.5.a. Should include providing Direct Supervision

Comment: 6.5b. Define frequently.

Response: This is a training issue dealing with the proper supervision of children.

Comment: 6.5.c.2. There should be no age limit on children. Children need constant supervision, irregardless of their age and whether or not there is a body of water present.

Comment: 6.5.c.2. Does this mean that children are being allowed outside unsupervised? Example: The provider has no pool, pond, hot tub, or other body of water, but may live near an high traffic area and has three 7 year olds.

Response: Rule 6.5.a. is sufficient for this requirement that includes within sight or hearing of all children in care.

Comment: 6.6.a. At one time? Or all together?

Response: At any one time has been added to this requirement.

Comment: 6.6.b.1. Talks about children being under 6 who live in the home so is it to be 6 and under or 13 yrs. Personal opinion it should be thirteen I think this needs to be looked at a little closer.

Response: This would require a change in the current law.

Comment: 6.6.b.1. Does a provider have to count their 5 (five) year old child when that child is in kindergarten and not home during the day?

Comment: Maryland and Virginia are our neighboring states and their providers are paid more per child, per day than we are. They are also allowed to take care of more children than we are. It appears to us that our legislators have little faith in us as childcare providers. We work under pressure knowing that if the state monitors find we have over 6 children due to overlaps, that we will be closed. The state is making our job very hard for us to do. We are not even allowed to have transition period for change of shift. Very often one parent needs to be at work before another parent comes to pick up their child. We have no control over this and most of the time the parents do not either. Virginia works on a point system that allows for a provider to have more children based on their ages. This system works out better, because once a child turns 16 months of age the points begin to drop. Finding toddler care has been a real problem for some parents. If they have children over 2 but have a toddler, they still have to find a provider with an open infant spot. Those spots are rare. In this case, the parents would have to take their children to more than one provider. This is

an inconvenience for the parent and child in the same family need to stay together.

Comment: I would like to propose that providers be permitted to care for up to eight children in their home as long as the children are between three and five years old, and are all potty-trained. One loving, responsible adult for eight little ones is a very reasonable ratio and would allow providers to earn a bit more. The very low income in this profession makes it very difficult to make it a profitable endeavor. I have a three year waiting list for my program. Every year I turn away children whom I would love to care for. Please revise our regulations to make that possible.

Comment: I do not agree with the rule that says caregivers can care for only six (6) children under the age of thirteen (13). The rule should stay at six (6) children under six (6) years of age.

Comment: I feel that the family day care home regulations that we can have no more than two (2) children under the age of two at one time needs changed. I feel that the regulation should be lowered to at least two children under eighteen (18) months. Lowering the age limit would help the day care providers and in return help parents to find providers to watch their children.

Response: Current law includes these limitations. In addition, most states limit registered homes to 6. Licensed homes in other states may be allowed to care for more children.

Comment: 6.6.b. What about foster children?

Response: Caregivers shall count any foster children who reside in the home and are under six (6) years of age.

Comment: 6.6.b.2. No more than 6 children, 12 or under, regardless of their role, who are visiting and not accompanied by a parent or responsible adult.

Response: During business hours, the family child care home must maintain ratios.

Comment: 6.7.c. Substitutes should notify parents that the provider has had an emergency and that she/he now has the children.

Response: Substitutes shall notify parents in emergency situations has been added to this rule.

Comment: 6.7.d. I disagree with the time period. I was involved in a car accident last year and had two weeks out of work where my substitute came in and cared for the children. I had numerous doctors visits and I used a substitute so that families wouldn't have to go elsewhere. I feel this should be amended to cover emergencies and direct causes from the emergencies.

Comment: 6.7.d. The caregiver shall use a substitute for no more than two (2) consecutive full weeks annually or more than an average of eight (8) hours weekly is far too generous as it allows an unscrupulous child care provider to "sublet" a child's care for up to the equivalent of 52 workdays a year. If a provider has a need to have this much substitute care, then I think it is the Department's responsibility to require the parent(s) to find a second approved provider instead of allowing this situation to occur.

Response: The issue of substitutes has caused considerable controversy even before these rules

were revised. Much of this controversy stemmed from the unclear way substitutes were defined and regulated in the past. After taking all positions into consideration, a compromise was reached and added to this rule.

Comment: 7.1 a.1. Does this eliminate outdoor privy's?

Response: Yes. This rule specifies indoor plumbing as a requirement.

Comment: 7.1.b.2. Should also say **Working Refrigerator**.

Response: Working refrigerator added to this rule

Comment: 7.1.b.2. Please add: To keep tables and counter tops free of knives, scissors and appliance cords. On the stove top, place pots and pans on the back burner and turn handles toward the back of the stove.

Response: This is a training issue for providers.

Comment: 7.1.b.6. Should state that the working flashlight is available and in the home.

Response: In the home has been added to this rule.

Comment: 7.2. "Safety Barriers," needs to be defined more clearly. For example, 7.2.c reads: Safety gates shall be installed at the top and bottom of stairs when infants and toddlers are in care. Does this mean all stairs, even ones these children will not be using, e. g., outside the rooms in use, have to be gated? I often am told that no one uses that porch, even though it appears to be a convenient entrance to the home. "Installed" is problematic as well. Does this gate have to be permanently attached to a sidewall?

Comment: 7.2.b/7.2.d Why do we not apply the same height of 36 inches to both regulations. 7.2.b does say hand railings, so we assume one on each side, but there is no mention of protective sides to the rails, so that children won't fall under the rail to the ground. We suggest lattice sides that run to the ground level so that the children won't fall off the sides of the stairs and can't crawl under the steps. Also these steps should be permanently affixed rather than the little metal steps that often are seen at mobile homes. Risers would also be helpful so that the child can't fall between the steps.

Comment: 7.2.c.1. Refers to "lattice." Does this refer to a material a child can penetrate with a hand? In other words, does a safety gate have to be a solid, i.e., without any openings, structure or is it referring to some specific product?.

Comment: 7.2.c.2. Suggests that the gates (and the manner of how they are installed) are somehow distinct from one gate to the next, depending upon their location. The use and regulation of gates is unclear.

Comment: 7.2.d. Secure, child-proof railings and barriers." I have had many arguments with providers over the inspection of a corrective action plan-required installation of some structure, e. g., a gate or railing, that I did not consider "safe." They contend that their installation is safe and I

have nothing specific to refer to for justification of my decision.

Response: The Department has made some clarification on these requirements. After much research, the Department has determined that other states and national standards do not discuss safety gates and barriers in detail training will be provided to regulatory staff to assist them in making decisions.

Comment: 7.3.a.2. For clarification it should be specified that the regulation is 4 ft or higher from the floor and child safety locks are not permitted.

Response: There is no basis for requiring this in the rule.

Comment: 7.3.a.1. Have child proof barriers to prevent children's access.

Comment: 7.3.a.2. Eliminate "6 years of age". Storage should be kept in a high place. Anything labeled "Keep out of the reach of children" should be stored in a high place that is inaccessible.

Comment: 7.3.a.4. Should also say "Locked Closet"

Response: This requirement meets the intent of this rule..

Comment: 7.4. "Emergency Exits," states in 7.4.b that a second exit can be a window. 7.4.c does specify a height limit for it to be considered a second exit. However, the standard does not specify if this window can be used as a realistic exit. That is, can the provider demonstrate (and should demonstrate) that she or he can open it easily? Is there an elaborate storm window that may limit the use of the window in an emergency? Is there a huge piece of furniture that blocks quick access to working the window mechanism and opening it? I have had providers point to almost any type of window and insist this is their second exit when pressed on the use of some rooms.

Response: Department staff must use discretion to determine if a secondary exit is a realistic exit and therefore; may require the provider to demonstrate if the secondary can be opened easily and not obstructed.

Comment: 7.4.a. Please clarify how we enforce this in apartments.

Comment: 7.4.b. Please address apartments.

Comment: 7.4.c. How does this affect apartments and how far from the ground should it be outside.

Response: Multi-family dwellings meet higher fire safety standards and apartments are inspected by the State Fire Marshal's Office. Such issues involving apartments are considered to be training issues. Training will be conducted at a later date for Department staff. We have included a new rule as 7.4.e. to address emergency exits.

Comment: 7.4.c. No furniture shall be placed in front of a window that a child could climb up on and then fall out of the window. The windows should only be open a few inches, i.e. no more than six. Cords hanging from curtains or blinds in rooms where a child could have access to the blind or

cord are prohibited.

Response: A requirement will be added as 7.3.a.5. to clarify cords and blinds.

Comment: 7.4.c. What is the reasoning behind the requirement that windows are to be located no more than 44 inches from the floor.

Response: This standard height requirement was based on a recommendation from the State Fire Marshal's Office.

Comment: 7.5.b. Should also say they cannot run across walkways unless they are covered by a protective coating, an are stabilized to prevent tripping.

Response: This rule has been revised to indicate that cords shall not be run through common walkways unless stabilized to prevent tripping, but we have opted not to require special coating.

Comment: 8.1.b. Should say "primary (doors) and secondary (windows).

Response: Current rule 7.4.b. is sufficient to meet this requirement.

Comment: 8.1.c. Records to be made available to the child care specialist upon request.

Response: All required forms are to be made available to the Department.

Comment: 8.2.b.1. Carbon Monoxide Detector should be the plug in type with a battery back up. No digital required.

Response: The current rule requiring digital carbon monoxide detectors follows the recommendation of the State Fire Marshal's office

Comment: 8.2.b.2. How does the CCS verify the oxygen depletion sensor is properly functioning?

Response: Properly functioning has been deleted from this rule.

Comment: 8.2.c. Should specify openings that openings in the barriers should be no larger than 2 3/8". The barriers should be in addition to the guards that are attached to the heaters. A protective barrier, guard or screen is required. Can this be the cool-to-the-touch casing of a stove, etc., or is this a requirement for a separate, free-standing barrier? Some stoves are constructed with a double wall that provides a heat barrier in case of contact.

Response: This is a training issue for Department staff.

Comment: 8.2.e. Must be stored outside of the home while children are in care.

Response: The current requirement is adequate in this rule.

Comment: 8.2.g. States hot water tanks shall be equipped with a pressure relief valve in an area inaccessible to children. I am not certain just what this requirement is and how to administer it. Does this mean the pressure relief valve only, is to be inaccessible or does it mean that all hot water tanks are to have such a valve and the tank, itself, is to be in an area not accessible to children? Many homes have a hot water tank placed in the corner of a room. Can the provider just place a "child-proof" barrier around the tank or is the entire room (the "area") to be off limits to children?

Response: The rule is intended so that hot water tanks are located in an area inaccessible to children. If the hot water tank is located in an area accessible to children then a safety barrier will need to be installed.

Comment: 8.2.g. Pressure relief valve must be plumbed to the outside to prevent scalding of children.

Response: The current rule is sufficient that requires hot water tanks to be in an area inaccessible to children.

Comment: 8.3.b. Also mentions the requirement for one in any residence with any "gas appliances," etc. I would interpret 8.3.b to require any home with a natural gas-fired kitchen cooking stove or natural gas-fired central heating system, for example, to have a digital CO monitor installed. Is this what is required by this regulation? If so, almost every home I have visited will have to install one.

Response: This rule requires all residences that use appliances, or have heating sources that produce carbon monoxide to have a digital carbon monoxide detector.

Comment: 8.3.c. Working Batteries installed at all times.

Response: This rule is currently sufficient.

Comment: 8.3.d. Fire safety requires semi-annual replacement of batteries in smoke detectors.

Response: Semi-annual has been added to this rule.

Comment: 8.3.e. Should also say "and in the home."

Response: Shall be available in the home at all times has been added to this rule.

Comment: 9.1.e. Ashtrays need to be included.

Response: Ashtrays have been added to this rule.

Comment: 9.2.a.1. Vaccinations administered by an individual certified to administer Rabies vaccinations. What about rabbits, guinea pigs, etc.? Are wild animals allowed?

Response: National Health and Safety Performance Standards only recommend vaccinations for dogs and cats. The standards also give no recommendation concerning individuals certified to administer rabies vaccinations.

Comment: 9.2.a.2. Include word "injured" as well!

Response: Injured has been added to this rule.

Comment: 9.2.a.4. Refers to "ferrets" and "wild animals." I have heard the argument that "That animal isn't wild anymore, it has been tamed." If the purpose of this regulation is to keep non-domesticated or exotic animals out of children's reach, then I think it should be worded more specifically.

Response: The current requirement is adequate in this rule.

Comment: 9.2.b. Who specifically do they call?

Response: The Department Child Care Specialist in the appropriate county.

Comment: 9.3.a. Should say " Play areas shall be free from unsanitary or hazardous items, including but not limited to.... or other hazardous items/conditions.

Comment: 9.3.a. What about septic tanks?

Response: The issue of septic tanks is covered by open sewage in this rule.

Comment: 9.3.b. What about ground protection/cover? Also concerning outdoor play space, we think that there should be some play space available for outside play even if it is a local park, but we feel the provider should be able to tell us how they will safely get the children to that space. (One provider told us she took 2 infants and 2 toddlers, and a cooler for 20 blocks to Ritter park, walking). We also think the regulations should address the safety of the outside play area. For instance, if the house sits next to a creek, a cliff or a busy highway, we should be allowed to request a fenced in play area.

Response: See requirement 9.3.a. 9.3.c.1. and 9.3.c.2. added to this rule.

Comment: 9.3. Play areas. No trampolines? I have a safety enclosure around the entire trampoline with latches to get in and out and children are very well supervised that even toddlers get jumping exercise. I obtain written parental permission and have the note notarized.

Response: Considerable research has been completed regarding this issue. A study by the U.S.

Consumer Product Safety Commission last year found that the number of trampoline injuries that required a trip to the emergency room tripled in the last decade. From an estimated 37,500 injuries in 1991 to almost 100,000 in 1999. Two-thirds of the injuries involved children who were between the ages of 6 to 14 and about 15% involved children under the age of 5. The study also concluded that since 1990 11 deaths have been related to trampoline use.

Comment: 9.3.c. We would like to have the trampolines prohibited.

Response: Trampolines use is prohibited while the children are in care. This rule can not require trampolines to be prohibited from a family day care home who choose to use a trampoline for their own personal use during non-business hours.

Comment: 10.1.a.3. Isolate a sick child until a parent can be contacted to pick up the sick child.

Response: The current requirement is adequate to meet the intent of this rule.

Comment: 10.1.b. On a daily basis for each day the child needs medication. One form should be completed for each medicine with the specific information about the medication.

Comment: 10.1.b.2. The provider shall maintain a record of the dates and times the medicine was administered and who administered the medication.

Response: Sufficient information concerning the administration of medication is already contained within the rule.

Comment: 10.1.c.1. Should say "have not reached their sixth birthday.

Response: Who have not yet reached their sixth birthday has been added to this rule.

Comment: 10.1.c.1. Medical exams for children 6 & under within 6 mo. prior to or 30 days following admission - I am assuming that this means the physical must not be any older than 6 months and if it is, then a new one is needed. I'm not sure how many times a year Medicaid will pay for a well child exam but most insurances will only pay for that once a year. The physical should be no more than 12 months.

Comment: 10.1.c.1. A child's medical should be updated more often than every 2 (two) years. Too much can change during childhood years.

Response: This rule has been revised to follow the National Health and Safety Performance Standards recommendations for medical examinations to be completed annually.

Comment: 10.1.c.2. Should specify Children's Medical Exams.

Response: Children has been added to this rule.

Comment: 10.1.c.3. Are completed and updated, and immunization schedules should be included.

Response: Completed and updated has been added to this rule.

Comment: 10.1.c.4. Schedule/documentation from the physician for completion within 30 days.

Response: The Department allows a grace period to coordinate with the Federal Child Care Development Regulations to allow parents sufficient time to have immunizations updated.

Comment: I also agree that caregivers should be required to have running water. This was a safety issue that needed addressed.

Comment: 10.2. Sanitation! Well water? Will the state pay for the annual testing?

Comment: 10.2.c. If the main source of water is a well, then testing by the Health Department should be required. The test results shall be made available to the CCS upon request.

Response: Access to water provides for fluid maintenance essential to body health. The water must be safe to avoid the spread of disease. Wells are addressed within the Rule. While there are no funds to pay for the annual testing, the caregiver may claim it as a business expense for tax purposes. Department regulatory staff may request a copy of this report.

Comment: 10.2.d.4. What about provider bathroom use?

Response: Bathroom use has been added to this rule.

Comment: 10.2.d.5. Should mention Universal precautions for blood?

Response: It is included in Appendix 78-19-C.

Comment: 10.2.e. No mention of using gloves in universal precautions. Not mentioned in appendix either.

Response: The requirement to use gloves is mentioned in Appendix 78-19-C of this rule

Comment: 10.2.f. Food and drinks.

Response: Drinks have been added to this rule.

Comment: 10.2.g.1. Doesn't mention liners for garbage cans.

Response: Liners have been added to this rule.

Comment: 10.2.g.2. For clarification should mention cleaning bathroom facilities if soiled.

Response: This suggestions has been added to the rule.

Comment: 10.2.g.6. Screens that are in good repair and cannot be removed by children.

Response: The current requirement is adequate to meet the intent of the rule.

Comment: 10.3. Nutrition: Does this meet the food program regulations?

Comment: 10.3.a. If a provider is not participating in the Food Program, the provider shall maintain records of their menus and these records shall be made available to the CCS upon request. Providers shall provide all food except baby formula and baby food.

Response: The rule applies to all providers regardless if they participating in the Child and Adult Food Nutrition Program.

Comment: 10.3.c. Some providers have no tables. How do we address this? Booster seats also need to be addressed, they should be prohibited as they are not safe.

Response: Providers must have tables for children to eat as specified in this rule. Our research indicates booster seats are safe if used adequately Staff will be trained on what that means

Comment: 11.1. We suggest that locking ladders are not a deterrent. Climbers just use them for footholds. Also the regulations should specify a type of fence or at least specify that it be sturdy enough to resist falling over when children try to climb on it.

Response: The intention of this requirement is for children to be supervised at all times in homes that have swimming pools. Therefore, the locking ladders and gates are meant to be used a deterrent for children to enable providers to get to children in a timely manner.

Comment: 11.1.a. Wading pools and small pools for children should be allowed if the children are supervised and the pools are emptied and cleaned daily. Water play offers an excellent development for children.

Comment: 11.1.a. I do not agree with the rule regarding wading pools. I understand why they will not be allowed in a child care setting, but I think providers should be allowed to have them as long as the provider is always present and the water is fresh daily.

Comment: Why are Family Homes not allowed to have children's pools? If such pools are required to be directly supervised and kept clean or use a filtration system they are safe. Day Care Centers have the option to take children water skiing, scuba diving and inner - tubing which seem initiatively more dangerous than playing in a "kiddie- pool". Additionally, Appendix 78-19E Table C list "floating toys" as age appropriate equipment and materials.

Response: After extensive research regarding this issue, the Department supports the recommendations of "The ABC's of Safe and Health Child Care" prepared by the Center for Disease Control and Prevention (CDC) The (CDC) recommend that:

“Small, portable wading pools should not be used. They do not permit adequate control of sanitation and safety. Wading pools provide a superior means of transmission of infectious diseases. Because they have no filtration system, the stagnant water provides a perfect setting for bacteria to grow. Instead, use sprinklers, hoses, or water tables as an alternative for water play.” Additional research supporting several health risks and reasons for prohibiting wading pools is available on line at <http://www.cdc.gov/ncidod/hip/abc/abc.htm>

Comment: 11.1.b. Pumps/filters should be behind a protective barrier to prevent access by children.

Response: Children that are properly supervised should not have access to pump and or filters.

Comment: 11.1.c.1. States a fence that connects from the top of the pool and extends at least two (2) feet above the pool with a locking ladder attached. Is this fence to be physically attached to the pool side itself and can this ladder interrupt the continuity of this two foot fence or does it have to allow entry to the pool interior above this two foot level? I find this statement quite confusing and I have not had anyone be able to explain it in a satisfactory manner after reading this section.

Response: Yes. The two foot extension should be attached to the side of an above ground pool. Pools that have this type of fencing would generally have a deck or locking ladder to allow entry. The two foot extension requirement for above ground pools is recommended so that caregivers may use the two foot extension manufactured for these type of pools. If caregivers do not choose or have the ability to utilize this option than they must have a fence at least four (4) feet high surrounding the pool as required in revised rule 11.c.2.

Comment: 11.1.c.2. These seem contradictory and are somewhat confusing. 1. says the fence needs to be at least 2 ft. above the pool, 2. says the fence is at least 4 ft. high (some pools are 4 ft. which means they would need a 6 ft. fence?)

Comment: 11.1.c.2 is clear, but 11.1.c.3 should specify that the gate has the same height requirement. I have inspected pools where the gate did not meet the height of the fence. I do get arguments of this specificity from providers and would hate to have to go to a hearing and have my decision overturned by a technicality like the distinction of a "fence" as opposed to a "gate."

Response: See previous response. Caregivers who choose to use a two foot extension fence on an above ground pool would actually have a height of six (6) feet if the above ground pool has the normal standard height for above ground pools of four (4) feet. The rule does not intend for caregivers to install a fence that is six (6) feet high.

Comment: 11.1.c.3. Locking ladder remains locked when the ladder is not in use.

Response: Entry gates and or ladders that remain locked when not in use.

Comment: 11.1.e. With a key operated lock.”

Response: The current rule is adequate. If children are supervised hard covers should be sufficient.

Comment: 11.2.a. Should say "A family Day Care Provider", not home.

Response: This rule has been changed to A caregiver

Comment: 11.2.a. How do we verify the adult is a swimmer? We recommend a signed statement from the provider.

Response: The Department will accept self-certification..

Comment: 11.2.b. Discusses taking children to public pools. What about lakes, etc., where lifeguards are not present?

Response: This rule has been revised.

Comment: 12.1.b. Take out caregivers records, it should read "maintained in the child's individual records.

Response: Emergency records should be portable therefore should not be maintained in the child file.

Comment: 12.1.b. Emergency information should be completed on the form provided during orientation. Some providers just write the emergency numbers on a slip of paper and don't get all of the numbers that are listed on the SS-DC 10E. They also don't get the slip of paper notarized.

Response: This is required for subsidized providers only. Child emergency forms should be completed by the parent and given to the provider once they are notarized. Your comment is a procedural issue and may be better addressed in policies and procedures.

Comment: 12.1.d. Forms must be notarized.

Response: This rule has been revised to indicate emergency consent forms "shall be notarized."

Comment: 12.2.a. Kept together in a portable container.

Response: "Portable" has been added to the rule.

Comment: 12.2.b.7. Just say band aids.

Response: Band aid is a brand name.

Comment: 12.2.b. Choking Guide needs to be included.

Response: Choking should be covered in the required first aid guide. In addition choke saving is a required training of providers.

Comment: 13.2.a.1. West Virginia State Law for Child Safety seats requires children to reach 4 years of age and 40 pounds before using a booster or seatbelt. This may have changes, but should be looked into.

Comment: 13.2.a.1 In back seat only!

Response: This rule is consistent with current West Virginia State Law §17C-15-46 requiring children under the age of three (3) years of age to be placed in a child passenger safety device system meeting federal safety standards. This section of the code along with §17C-15-49, requires passengers under the age of eighteen years to be restrained by a safety belt.

Comment: 14.1. This whole section needs to be deleted for family daycare. Family daycare is not a program. This is a way parents/guardians get to work, bring their children into a home, lay them down on the sofa to finish their rest and know that they will be treated as if the child is one of the provider's own children.

Response: Child care is both a service to parents who work or attend school and an opportunity for child to develop and learn. While providers may treat children as their own, it is also important that these children are in an environment that is full of learning opportunities. The quality of a child's earliest experiences has a critical impact on brain development; therefore, the quality of infant and toddler care has a critical impact as well. As a caregiver engages and responds to a child she/he is also helping to activate the formation of synapses, or connections between brain cells. These synapses will combine to form neural pathways and the configuration of those pathways will determine the child's ability to learn, relate to people, manage emotions, and function in the world. Based on this brain research, it is imperative that young children need nurturing, supportive, secure and predictable relationships as well as individualized and responsive attention and care.

Comment: 14.1.b.2. Don't others have to rest, at least?

Response: This should be determined at the caregivers discretion and depend on the ages and hours children are in care. (i.e.) A school age child that is only in care minimal hours per day may not require a nap.

Comment: 14.1.b.4. What are guidelines for "weather permitting?"

Response: This rule has been revised with an explanation on weather permitting.

Comment: 14.2. Are we holding people to a higher standard of care?

Response: Curriculum and a daily routine quality enhancements are commensurate with the current reimbursement rates.

Comment: 15.1.c. Rules need to be written.

Response: National Health and Safety Performance Standards only recommend written rules for Facilities or Child Care Centers

Comment: 15.2.a.1. Should include smacking the hands of toddlers.

Response: The current rule is adequate.

Comment: 15.2.a.7. Forcing a child to do something they are extremely afraid of doing.

Response: Terrorizing covers this issue.

Comment: Due to the events of 9/11/01 it seems inappropriate to use the term “terrorizing” in Section 15.2.a.7. Perhaps more appropriate terminology could be used.

Response: See previous comment and it’s response.

Comment: 16.1.a.2. Please be more specific on what an adult bed includes, waterbeds for infants, etc.

Response: This rule now includes any type of adult bed.

Comment: Providers homes should have fans and or air conditioning in use for extremely hot days and give frequent liquids to children.

Response: Cooling has been added to the rule.

Comment: Section 16.2 should specify that children should be held in an upright position when being bottle fed

Comment: 16.2.a.3. **Do not prop bottles.**

Why would you lower the age?

Children Should be held upright when being bottle-fed.

Response: The National Health and Performance Safety Standards state that infants should be offered beverages at seven or eight months of age, so we feel the age limit is adequate. However, we have added the statement that bottle shall not be propped, as this can cause choking, aspiration and increased risk for ear infections and tooth decay. The national Standards also indicate that infants shall either be held or fed sitting up. We feel the rule, as revised is adequate.

Comment: 16.2.a.4. Holding children any time they are bottle feeding! Current regulations indicate 9 (nine) months or younger. Seven months is too small to not be held.

Response: Please see the response to 16.2.a.3. 16.2.a.4. is intended to insure that children who are delayed in their development continue to be held while bottle-feeding past the age of six (6) months.

Comment: 16.2.a.7. No soft pillows, stuffed animals, etc. in infant bed during sleep.

Response: This has been added as rule 16.1.a.3.

Comment: 16.3.b. ONLY when age appropriate

Response: Parents determine what is age appropriate for their children.

Comment: 16.3.b.2. Empty and sanitize.

Response: This rule has been revised.

Comment: 17.1.a.3. How do we verify?

Response: By self-certification unless investigating a complaint.

Comment: 17.2. What about water temperature?

Response: The requirement on bathing meets the intent of the rule.

Comment: 17.2.a.5. Should also say clean towels and clean water.

Response: This requirement has been clarified.

Comment: 18.1. Responsibilities: Providers that only care for private pay families should not have to prove time children were in care! We offer our own contracts and a lot of us charge regardless if the child is present or not.

Comment: Section 18.1.a "parental forms required by the Department" should be specified and attached in an Appendix to aid in ease of location and to ensure correct versions of forms are used.

Response: It is a very involved and long process to change a rule since forms may need to be changed quickly they are not included.

Response: West Virginia State Law grants the Department the authority to regulate all family day care homes who care for four (4) to six (6) children regardless if the children are private pay only or the caregiver is receiving state subsidy.

Comment: 18.1.c. A family Day Care Provider shall keep their sign in/out forms for two years.

Response: Providers are required to keep records on file for two years as revised in 18.1.c.

Comment: 18.2. Caregiver will notify Law Enforcement immediately if they suspect the parent is intoxicated when they pick up their child.

Response: This is a training issue with the Resource and Referral Agencies to assist providers in developing policy and procedure guidelines to assist with certain situations.

Comment: 19.1. A Family Day Care Provider shall report immediately...

Response: Immediately has been added to this rule.

Comment: 19.2. A family day care home shall report all household changes within 72 hours...

Response: This is now included in rule 19.3.

Comment: 19.3 a.b.c All within 72 hours.

Response: Rule 19.3. will now require rules 19.3.a., 19.3.b., & 19.3.c. to be reported within 72 hours.

Comment: 19.3.a. Report accidents or illnesses resulting in emergency treatment, hospitalization, or death of a child. Again why do provider who have private pay only children need to report this information to the Department? These are not state funded families.

Response: West Virginia state law requires all providers caring for four (4) to six (6) children to be registered. Subsidized and non-subsidized providers are required to meet the same rule. This is generally a standard operating procedure for caregivers of all types to report serious incidents to the proper regulating authority.

Comment: Appendix 78-19-B some individuals are allergic to bleach. Alternative Disinfectant and sanitizing solutions should be provided.

Response: The provider may request a variance to use an alternative disinfectant.

Changes to Proposed Rule for Family Day Care Homes

- 3.5. "physical development" was added to the list of core competencies.
- 3.16. School-Age Child.- A child age five(5) years to thirteen (13) years of age.
- 4.1.a. "Self was" added to this rule.
- 4.4.d. A record of "all" substantiated complaint against family day care homes has been added to the rule.
- 5.1. At any time during the caregivers hours of operation has been added to this rule.
- 5.3. The caregiver shall provide access to all areas if the home has been included in this rule.
- 6.1.a.2. This rule has been re-worded to provide clarification.
- 6.2.b. This rule has been re-worded to clarify the rule.
- 6.3. This entire section was re-worded to clarify the rule.
- 6.5.c.1. "Buckets" was added to this rule.
- 6.7.c. Substitutes shall notify parents in emergency situations has been added to this rule.
- 7.1.b.2 "Working" refrigerator has been added to this rule.
- 7.1.b.6. "in the home" has been added to this rule.
- 7.5.b. This rule has been revised for clarification to include that cords shall not be run through common walkways unless stabilized to prevent tripping.
- 8.1.c. This rule has been edited to provide clarification.
- 8.2.b.2. "Properly functioning" has been deleted from this rule.
- 8.3.d. "Semi-"annual has been added to this rule.
- 8.3.e. Available "in the home" has been added to this rule.

- 9.1.e. "Ashtrays" has been added to this rule.
- 9.2.a.2. "Injured" has been added to this rule.
- 9.3.b.1. & 9.3.b.2. Added to the rule to provide further clarification for outdoor play areas.
- 9.3.b.1. Anchored play equipment shall not be placed over or immediately adjacent to, hard surfaces.
- 9.3.b.2. All outdoor activity areas shall be maintained in a clean and safe condition by removing debris, dilapidated structures, broken or worn play equipment, building supplies, glass, sharp rocks, twigs, toxic plants, and other injurious materials.
- 10.1.c.1. "Who have not yet reached their sixth birthday" has been added to this rule.
- 10.1.c.2. "Children" Medical examinations are completed and updated "annually" has been added to this rule.
- 10.1.c.3. "Completed and updated" has been added to this rule.
- 10.2.d.4. "Personal bathroom use" has been added to this rule.
- 10.2.f. Food and "drinks" has been added to this rule.
- 10.2.g.1. "Liners" has been added to this rule.
- 10.2.g.2. "When soiled" has been added to this rule.
- 11.2.a. A "caregiver" has been added to this rule.
- 11.2.b. This rule has been re-worded for clarification.
- 14.1.b.4. This rule has been re-worded to provide clarification on weather permitting.
- 16.1.a.2. "Any type" adult bed has been added to this rule.
- 16.2.a.3. The rule has been revised to "include bottle propping is prohibited".
- 16.3.b.2. "Empty and sanitize" was reworded to clarify the rule.
- 17.2.a.5. This rule was reworded to provide clarification.
- 19.1. "Immediately" has been added to this rule.
- 19.3. This rule was re-worded to clarify all reporting in rules 19.3.a., 19.3.b., & 19.3.c.

need to be reported within seventy-two (72) hours.

Comments Received

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Thu, Jun 20, 2002 12:51 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 68.67.248.6
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1)
Date: Thursday June 20, 2002
Time: 12:55 PM -0400

Comments:

In reference to 7.3.a.4 Closets that do not lock, guns should have trigger locks, and keys to locks should not be accessible to children

11.1.a wading pools and small pools for children should be allowed if the children are supervised and the pools are emptied and cleaned daily. Water play offers an excellent development for children.

If the amount of training is to change, there should be more after hours training scheduled. Substitute providers for training are hard to find, if one of the trainings that mountainhart or DHHR offers each month would be scheduled from 5-7 or 6-8 this would help with the people able to attend training, Since most seminars and training occur during business hours

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Thu, Jun 20, 2002 4:56 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 152.163.201.204
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; AOL 7.0; Windows NT 5.1)
Date: Thursday June 20, 2002
Time: 05:00 PM -0400

Comments:

my only question is concerning smoking, trampolines, wading pools, is what if we have the parents permission to do so. and this is from all parents involved

Sheliaison2day@aol.com

From: "Linda" <ww9461@dragonbbs.com>
To: <oss@wvdhhr.org>
Date: Thu, Jun 20, 2002 5:20 PM
Subject: Day Care Fraud

To whom this may concern,

I would like to know who to report fraud to if you know some one is getting money for taking care of children they are family with and they claim there watching the children more days than they really watch them or while other people have them they claim there watching them. Also they forge the mothers name saying they watched them instead of having her sign her own name each time. I am a tax payer and I believe people need help but I think it is unfair for people to use this program to just bleed the tax payers of money and then not do there job like the rules says. Please get back with me about this, I want to know who to report this matter to. I have reported this matter to the Office in the county its happening in and they never even check it out, but they tell the person I'm reporting that I made a complaint about it cause they will call me and tell me they were told that I reported them and I thought that was suppose to be kept between the Office and the person who reported the matter to them. Thank You.

June 20, 2002

Office of Social Services,

I am a Family Day Care provider, in
Taylor County,

I've been a Provider for about
twenty-four years. I enjoy providing
care for children. I usually watch children
of all ages. I do a lot of evening and
weekends. A lot of Parents have a hard
time finding care for their children.

I try to keep a safe Day Care Home.
As a rule one rules may change year after
year. I attend all most every class that is provided.

I think Day Care Homes are important,
because parents have such odd hours.
And parents don't always get weekends off.
Thank you for asking to voice my comment

Family Day Care Provider
Linda Boyles
612 Maple Ave.
Grepton, W. V 26354

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Thu, Jun 20, 2002 7:24 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 206.105.173.57
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows 98; Win 9x 4.90)
Date: Thursday June 20, 2002
Time: 07:28 PM -0400

Comments:

I dont agree with the smoking policy, cause if the parents of all your children smoke and you ask them if its ok to smoke around them and they give you permission then i think it should be ok. Also about the pools on the outdoors i can see big pools but i think if you have a little kiddy pool thats not two foot deep i think you shouldnt have to put it up because of daycare kids, like i have a kiddy pool for my kids and i dont think its fair to them that you have to empty it every time a daycare child is in your care, you have to be outside with them anyways so whats the wrong with a kiddy pool. So i think you should reconsider these two things. Thats my opinion. THANKS

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Fri, Jun 21, 2002 9:33 AM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 129.71.229.156
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; MSN 6.1; MSNbDELL;
MSNmen-us; MSNc00)
Date: Friday June 21, 2002
Time: 09:37 AM -0400

Comments:

I do not agree with the rule that says caregivers can care for only 6 children under the age of 13. I would not be able to stay in business. The rule should stay at 6 children under 6 years of age.

There should be a change in the way notices are sent to providers such as: 1)A notice sent when a parent is being reviewed. 2)A notice sent if parent is given a certian amount of time to come up with the proper information to continue their certificate 3)A notice sent when the parent fails to meet that deadline 4) A notice when the case is definatly closed OR still eligible.....otherwise the provider should be paid for services rendered during the month that this review was going on and agency can collect the pay from the parent. Providers should not have to hassle a parent for services rendered. It is time consuming and causes a lot of mental stress on a person careing for children and causes a parent to not bring the child back to that provider, which in turn causes the provider to lose out financially. Being certified means being tied to NOT demand a deposit from these parents and so collecting the pay should be up to the agency.

Also a copy of a parent's certificate who has been approved should be sent by the agency and not left up to the parent to give to the provider and not left up to the provider to force them to bring it.

I see way too much responsibility is left upon the provider who already has a lot to do to stay certified such as: classes, first aid, paper work, food program classes and paper work, and don't forget taking care of children all day and night and keeping the home clean and up to regulations.

Too many reviews are given to parents even though they are suppose to be every SIX months. Parents are told they have to personally hand all their pay stubs and such to the agency and can not mail anything. Parents who are reviewed right before a change by the agency in parent fees and then dragged back into review a month later discourages the parent into giving up. Welfare people need encouragement and this system has caused one individual to quit her job because of the hassle from the agency. How many others are put through this forever running some proof to the agency in order to keep their child care provider and keep a job?

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Tue, Jun 25, 2002 9:52 AM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 24.197.67.154
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows 98; Win 9x 4.90)
Date: Tuesday June 25, 2002
Time: 09:56 AM -0400

Comments:

I think it is wonderful that you are now requiring CPR and first aid...but will it be provided to us at no charge? Some of these classes can be expensive if you don't have connections with the EMS squad.

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Mon, Jun 24, 2002 11:10 AM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.66.46
Remote User:
HTTP User Agent: Mozilla/4.72 [en] (Win98; I)
Date: Monday June 24, 2002
Time: 11:15 AM -0400

Comments:

I think providers should have to have drug testing.

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Mon, Jun 24, 2002 5:19 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.169.56
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.0; H010818)
Date: Monday June 24, 2002
Time: 05:23 PM -0400

Comments:

6.4.c. - Needs to be reviewed and modified....Michael P.

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Tue, Jun 25, 2002 1:09 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.64.48
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.0; Windows 95; DigExt)
Date: Tuesday June 25, 2002
Time: 01:13 PM -0400

Comments:

I believe that Family Day Care was to be changed to Family Child Care.

3.5 - Physical Development not listed as a core competency. Listed in appendix.

7.3.a.2. - For clarification it should be specified that the reg. is 4 ft or higher from the floor and child safety locks are not permitted.

8.3.d - Fire safety requires semi-annual replacement of batteries in smoke detectors.

10.2.e - No mention of using gloves in universal precautions. Not mentioned in appendix either.

10.2.g.1 - Doesn't mention liners.

10.2.g.2 - for clarification should mention cleaning bathroom facilities if soiled.

13.2.a.1 - I believe WV State Law for Child Safety seats requires children to reach 4 years of age and 40 pounds before using a booster or seatbelt. This may have changes, but should be looked into.

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Fri, Jun 28, 2002 2:21 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.17.80
Remote User:
HTTP User Agent: Mozilla/4.7 [en] (Win98; I)
Date: Friday June 28, 2002
Time: 02:25 PM -0400

Comments:

I think that all adults in the providers home should have to have medical that states they are also free of contagious diseases.

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Sun, Jun 30, 2002 12:45 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 65.238.90.24
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows 98; Compaq; MSN 6.1; MSNbMSFT;
MSNmen-us; MSNc11)
Date: Sunday June 30, 2002
Time: 12:50 PM -0400

Comments:

Thank God the state of West Virginia is waking up to the modern age. I do child care in this state and was very upset at some of the things I was asked about when I was inspected. I am glad that now the caregiver has to know how to read and write. How else can the children be read to . This is very important for their development. I also like that we need to have running water and a telephone in our homes. This is a safety issue that needed to be addressed. The only thing I don't totally agree with is the issue about wading pools. I understand why they will not be allowed in childcare. I think we should be allowed to have them as long as the provider is always present and the water is fresh every day.

Ruth Streight

CHILD CARE MANAGEMENT SERVICES

Tina M. Martin ~ 791 Best Road ~ Harpers Ferry, WV 25425
Phone 304-728-2218 ~ Fax 304-728-1050

July 02, 2002

FAMILY CARE HOME REGISTRATION REQUIREMENTS QUESTIONS, CONCERNS AND COMMENTS

78-19-3. Definitions

3-16. School Age Children- A child between the ages of 5 and 13. Does this include ages 5 and 13?

78-19-4. Certificate of Registration Information

4-7. Waivers and Variances-Can waivers be used for regulations in this 2002 packet? Example: Waiver for trampoline use, Splash Pool.

78-19-6. Caregiver, Substitute, and Household Requirements

6-3. Training Requirements-Six hours of Core Comp. annually. What about First Aide, CPR and 2 hours of Health and Safety, are these annual also? Does not specify. My Personal opinion about 8 hours of training is way too much for FAMILY daycare. I feel as long as we know general information such as First Aide, Rescue Breathing, Health and Safety of our children/daycare what more do we need to know when we are respected as their provider. My parents want daycare services as a home environment not a school.

6-6. Family Day Care Home Capacity. Lets increase the number of children to 8 with only 2 under the age of 24 months? Their are families that have that many children at one time and have been raised well.

6-7. Substitutes. I do not feel there should be hours specified for substitutes. As long as we use substitutes on a non-frequent basis including vacations, we should not have to set specific hours per week/year.

78-19-7. Home Safety Requirements.

7-1. Home requirements. Hot water to burn our toddlers? How about cold water with antibacterial soap?

78-19-8. Fire Safety.

8-1. Evacuation Plan. Written record of fire drills?

78-19-9. Environmental Safety.

9-3. Play areas. No trampolines! I have a safety enclosure around the entire trampoline with latches to get in and out and very well supervised that even the toddlers get jumping exercise. I get written parental permission and have the note notarized. Waiver?

10-2. Sanitation. Well water? Will the State pay for the annual testing?

10-3. Nutrition. Does this meet Wanda's food program regulations?

78-19-11 Water Safety.

11-1. Pools and Hot tubs. Step two splash pool?

11.2. Water Play. Splash pool gets emptied daily. Algaecide and a sanitizer gets used daily. How can this be not sanitary? Waiver?

~~78-19-14 Program and Equipment~~ This whole section needs to be deleted for FAMILY daycare. Family daycare is not a PROGRAM. This is a way parents/guardians can go to work, bring their children into a home still in PJ's if they wish, lay them down on the sofa to finish their rest and know that they will be treated as if the child is one of the providers very own children.

~~78-19-18. Parent Involvement~~

~~18.1. Responsibilities.~~ Providers that ONLY care for private pay families should not have to prove time children where in their care. We offer our own contracts and alot of us charge whether the child is present or not. Waiver?

78-19-19. Required Reporting to the Department.

19.3.a. Report accidents or illnesses resulting in emergency treatment, hospitalization, or the death of a child.

Again, why to Providers who have ONLY private pay families need to report this information to the department? These are NOT state funded families! Waiver?

Dear Concerned Family In Home Day Care Providers:

I would like to take this time and explain what I feel a FAMILY IN HOME DAY CARE means to me.

A Family is a group of people related. A Family daycare should be that close and feel like we are all related in one way or another. We trust and confide in one another in respect to our child care responsibilities. We treat other children as we would want our own children treated. We want our children welcomed opened armed. We let our daycare Family come into our homes and lay there children on our furniture to sleep. allow their children to play with our own children as well as their belongings. We do not separate our belonging from our Family daycare children. We do not segregate! We allow them to spend the night and not charge for daycare. We love, respect, and mold these children.

I, as a Family In Home Day Care Provider, was very disappointed to see the State taking the "Family" out of our Family In Home Day Care.

As I read through the projected 2002 Family Regulations, I see that they are trying to make us into Facilities/Centers and calling us "Programs". If parents wanted their children in those type of environments, they would have not put them into our "Family" homes. I personally enjoy the one on one I have with all my families. The State is wanting Family Homes to be equivalent to Monessories, Nursery Schools, County Schools. They are wanting children and Providers to be educated all the time. What happen to the say at home mom that just baby-sat the neighbor children, put them on the bus during school season or allowing them to play in the family back yard? They are not allowing no room for a laid back, kick off your shoes, lay on the sofa and just relax atmosphere.

I ask each and everyone of you to speak out and express your concerns. This is alot of our livelihoods and if some of the changes get accepted there will be alot of Family In Home Daycare doors closed.

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Tue, Jul 2, 2002 10:46 AM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.77.128
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows 98)
Date: Tuesday July 02, 2002
Time: 10:49 AM -0400

Comments:

Although it might not prove to be popular, I was very pleased to see that Family Day Care homes may be required to be smoke free facilities while children are in care. I know that many states require providers to have a GED or High School diploma and wondered if this was a consideration in updating Regs?

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Fri, Jul 5, 2002 2:08 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 170.215.132.75
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.01; Windows 98)
Date: Friday July 05, 2002
Time: 02:11 PM -0400

Comments:

TO whom this may concern

In section 6.7.d i disagree with the time period. I was in volved in a car accident last year and had two weeks out of work where my sub. came and cared for the children and then had numerous doctors visits that I used a sub. so that the families wouldn't have to go elsewhere. I feel that this should be amended to cover emergencies and direct causes from the emergencies.

Thank You
R. Bohrer

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Mon, Jul 8, 2002 5:59 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 170.215.145.74
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.0; Windows 98; DigExt)
Date: Monday July 08, 2002
Time: 06:03 PM -0400

Comments:

First of all I would like to say that some of the rule changes seem to be fine. The one thing that I DO NOT agree with is all the training. I am not being paid to be a teacher. When the state wants to pay me 22,000 a year then I will be satisfied with taking 8 hours of training and being forced to have a written daily routine. I have 5 children in my care ages 4, 9, 9, 11, 12. How do you suggest I have a daily routine for all of them?

HC 59 Box 219C
Petersburg, WV 26847
304-257-4785

July 7, 2002

Office of Social Services
350 Capital Street
Room 691
Charleston, WV 25301

Dear Child Care Division:

I am a certified day care provider in Petersburg, WV (Grant County). I feel that the family day care home regulation that we can have no more than 2 children under 24 months at one time needs to be changed. I feel that the regulation should be lowered to at least 2 children under 18 months. There is a great demand for day care providers for the children under 24 months. Lowering the age limit would help the day care providers and in return it would help parents to find day care providers to watch their children.

Sincerely,
Quanette L. Cosner
Certified Day Care Provider

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Wed, Jul 10, 2002 10:02 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 205.188.195.49
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; CS 2000 6.0; Windows NT 5.1)
Date: Wednesday July 10, 2002
Time: 10:06 PM -0400

Comments:

the rule that is if your child is 6 years of age you do not have to count the child but if she has a friend over to play during daycare hours you have to count their friends if your not getting paid and they are friends playing together why should you have to count them!

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Thu, Jul 11, 2002 1:12 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.30.88
Remote User:
HTTP User Agent: Mozilla/4.7 [en] (Win95; I)
Date: Thursday July 11, 2002
Time: 01:16 PM -0400

Comments:

When a home, provider, is closed by WVDHHR for cause, there should be mandatory closure periods. A good rule would be to bring the "sanctions" in line with other service i.e. 1st Sanction (Closure for Cause) mandatory 30 day, 2nd Closure a Mandatory 60 day, 3rd and subsequent closures 1 year. This should also correspond to repayments by providers.

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Fri, Jul 12, 2002 8:19 AM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 65.238.20.137
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.5; Windows 98; Win 9x 4.90)
Date: Friday July 12, 2002
Time: 08:23 AM -0400

Comments:

Dear sir or madam,

I have been an in-home day care provider for 21 years. I hold a Bachelor's degree in Elem. Ed, with a specialization in Early Childhood. I currently care for six children in my home. I would like to propose that providers be permitted to care for up to eight children in their home as long as the children are between three and five years old, and are all potty-trained. One loving, responsible adult for eight little ones is a very reasonable ratio and would allow providers to earn a bit more. The very low income in this profession makes it very difficult to make it a profitable endeavor. I have a three year waiting list for my program. Every year I turn away children whom I would love to care for. Please revise our regulations to make that possible.

Sincerely,
Mrs. Sarah Cobb

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Sat, Jul 13, 2002 1:18 AM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 64.12.96.202
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.5; CS 2000; Windows 98; Win 9x 4.90)
Date: Saturday July 13, 2002
Time: 01:22 AM -0400

Comments:

To whom it may concern,
I am writing this comments in regards to the new regulations you are proposing to use. I am a Day Care provider, but I am a MOTHER first. I have several reservations about the new rules. First about the 35 square feet of space. Who is going to pay for each family day home to add this space on to the house that they live in. My children with the furniture in the bedrooms do not have that much space. That is a 5x7 room per child. No home has that much space unless we live in a mansion. On the issue of pools. As a mother I would want my child in a wadding pool or a small inflatable pool, before letting them in a pool above ground or in ground. There may be a chance of drowning in both pools, but a leaser chance in a small pool. I also forbid as a mother for my childs Family Day Care provider to take my child to the public pools. On the notarizing of the forms. This cost money and must be done with BOTH PEOPLE present at the same time, this is seldom to be able to happen. I know that this could be used as a deduction, but this seems rather stupid when they are checked and copied and sent in to the DHHR office anyway. The posting of the daily activities is something that means nothing. These things change every minute of every day. There is no way that this can be followed. The mood of each child, the weather, putting up a daily routine is ridiculios. It takes time to do this and with all the paper work we already have along with the classes and spending time with our family once our day care closes. We are not paid by the hour like some of you. You all have a life outside of your job, so why can't we. There is enough activity that goes on to keep every one busy. My views on these new rules probably does not matter, but as a mother I want to voice them. We are a family day care not a prison. We try to teach thses children about life and family. We cannot set these teachings in motion, unless we have the means to do so. We do not get enough money to add a 5x7 room on to our homes per child.

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Mon, Jul 15, 2002 4:00 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.43.145
Remote User:
HTTP User Agent: Mozilla/4.08 [en] (Win98; I ;Nav)
Date: Monday July 15, 2002
Time: 04:04 PM -0400

Comments:

Sec. 6.4.b.3.G - "Felony Drug Offense in the last ten years" - I think this is a pretty serious offense and shouldn't

be allowed at all for people having such direct contact with children.

Sec. 6.5.c - This states that the provider must remain outdoors when children 6 & under are present. This leaves a lot

of unsupervised children ages 7 and up. Maybe say something about older children and that they must stay in the confines of

the yard or within sight of the home.

Sec. 10.1.c.1 - Medical exam for children 6 & under within 6 mo. prior to or 30 days following admission - I am assuming that

this means the physical must not be any older than 6 months and if it is, then a new one is needed. I'm not sure how many times

a year Medicaid will pay for a well child exam but most insurances will only pay for that once a year. The physical should be no more than 12 mos.

Sec. 11.1.c.1,2 - These seem contradictory and are somewhat confusing. 1. says the fence needs to be at least 2 ft. above the pool

2. says the fence is at least 4 ft. high (some pools are 4 ft. which means they would need a 6 ft. fence?)

Sec. 11.2.b. - discusses taking children to public pools. What about lakes, etc., where lifeguards are not present?

The regs. look great. I am glad to see a higher level of standards and more specific regs.

Public Comment Suggestions for the 2002 Legislative Rule for Family Day Care Homes

6.5a Should include providing Direct Supervision.

??? Is the intent of this policy to allow substitutes to provide care in their unapproved home? If so, why are we bothering to inspect homes?

The substitute Policy needs to specify that the care will only be provided in the provider's approved home.

6.5b. Define frequently.

6.5C2. There should be no age limit on children. Children need constant supervision, irregardless of their age and whether or not there is a body of water present.

6.6b2. No more than 6 children, 12 or under, irregardless of their role, who are visiting and not accompanied by a parent or responsible adult.

6.7C. Substitutes should notify parents that the provider has had an emergency and that she/he now has the children.

7.1 a.1. Does this eliminate outdoor privy's?

7.1.b.2. Should also say **Working Refrigerator**.

7.1.b.6. Should state that the working flashlight is available **and in the home**.

7.3.a.1. Have child proof barriers to prevent children's access.

7.3.a.2. Eliminate "6 years of age". Storage should be kept in a high place. Anything labled "Keep out of the reach of children" should be stored in a high place that is inaccessible.

7.3.a.4. Should also say "Locked Closet"

7.4A. Please clarify how we enforce this in apartments.

7.4.b. Please address apartments.

7.5.B. Should also say they cannot run across walkways unless they are covered by a protective

coating, an are stablized to prevent tripping.

8.1.b. Should say "primary (doors) and secondary (windows).

8.1.c. Records to be made available to the child care specialist upon request.

8.2.b.1 Carbon Monoxide Detector should be the plug in type with a battery back up. No digital Required.

8.2.b.2. How does the CCS verify the oxygen depletion sensor is properly functioning?

8.2.C. Should specify openings that openings in the barriers should be no larger than 2 3/8". The barriers should be in addition to the guards that are attached to the heaters.

12.1.b. Emergency information should be completed on the form provided during orientation. Some providers just write the emergency numbers on a slip of paper and don't get all of the numbers that are listed on the SS-DC 10E. They also don't get the slip of paper notorized.

16.1.a.2. Please be more specific on what an adult bed includes, ie. Waterbeds for infants, etc.

7.1.b.2 Please add: To keep tables and counter tops free of knives, scissors and appliance cords. On the stove top, place pots and pans on the back burner and turn handles toward the back of the stove.

Section 78-19-6

A statement is needed to state the provider must be able to meet the social, emotional and physical needs of each child in care. (Trust us, this is a must).

Section 78-19-7

7.4.c. No furniture shall be placed in front of a window that a child could climb up on and then fall out of the window. The windows should only be open a few inches, i.e. no more than six. Cords hanging from curtains or blinds in rooms where a child could have access to the blind or cord are prohibited.

Also in this section dealing with Home Safety Requirements, Home exercise equipment needs to be addressed as children are so attracted to this equipment.

Buckets of water should be emptied to prevent a child from toppling in them and drowning. If not emptied, then they should be out of the reach of children age 3 and under.

We have also heard that gel candy has been linked to several death's in children. Is often the shape of a small plug and children often suck it out of the pakage and it becomes stuckin their

windpipe. Due to the consistency of the gel, it cannot be pulled with forceps. It is too goey to get and children choke to death. This type of candy should be prohibited in Family Day Care Homes.

Public Comments on Day Care Regulations
Deadline is 7-19-02, 4:30 PM

3.6-CAP-Does the term "agreement" in this regulation mean that it needs the signature of the provider? We suggest changing it to a written document, rather than a written agreement. You may also want to indicate that we use the FACTS generated CAP.

3.13-We also revoke at the provider's request.

3.18-The regulation should specify where the care by the substitute will take place. We have only looked at the house of the provider and that is the only place that has even had self-certification. To have the children stay somewhere else means that there has been no regulation at all.

4.1.a- Add the word 'self' in front of the word 'certification'.

4.1.b-Needs to specify what forms are needed to complete the renewal of a current certificate. Also the policy needs to specify who's responsibility it is to take the initiative in this reapplication process. Should the specialist contact the provider or should the provider take that responsibility? We feel the provider should have the responsibility to contact a specialist to say that they would like to continue.

4.3.a.3-It's too late to call it a denial by the time we get the self-certification since they have 30 days to get that in to the specialist. By that time the provider has already been watching children for 30 days and expects to get paid. At that point, we have to open them in FACTS and then revoke.

4.4.b-Change the statement to readapplies only to the family day care home at the physical location... . Many providers are using a mailbox and we don't know when they change houses.

4.4.d-Should we include complaints made by the public. A lot of our complaints are not from the parents but are investigated, substantiated and are serious in nature.

4.6.a.2-Define inadequate sleeping areas. Is that the number of bedrooms, the space there or the types of beds available and what type of bedding do we want for toddlers (over age 2)?

5.1-What are reasonable on-site monitoring inspections. Is there a specific time? If we have a provider who does overnight care and we have a complaint that the provider is having friends in to party and drink after the children are in bed, should be not be able to go out in the evening? Also is there a specific number of visits that is reasonable? We think this word, reasonable, should be removed.

6.1.a.2-We think the provider should not allow intoxicated visitors in the home while the children are in care.

6.3.a.1-How often do the providers need to have first-aid, rescue breathing and choke saving. A CPR card is usually good for one or two years.

6.3.a.1 and 6.3.a.2-These should include the word annually. 6.3.a.3 does say annually.

6.4.a.1-Since we are getting a new statement of criminal record at renewal, it would be good to do a new CIB at that time as well.

6.4.a.2-Why do we need consent to check the Department records? And if we do need consent, then we need to add that Failure to consent will result in denial or closure.

6.4.b.1-This states that we will not grant a certificate if the caregiver or household member is currently under indictment or charged with crimes. How can we verify this? This needs to read that we will not grant the certificate if the caregiver or household member has listed a current indictment or pending charges. The same thing applies to 6.4.b.2. We do not know before we issue a certificate except what the provider tells us. Also, how can we know anything outside of the state of WV? There is no number for us to call to find out if a potential provider has pending charges or is currently under indictment.

6.5.a-We feel that the provider should be giving direct supervision, and we think direct supervision is not within sight or hearing, but physically present with the children. We have recently had a call that a provider was in the house with the 2 small children while 2 older children played outside. The provider says she could see the area where the children played. One of the older children fondled the other, leaving scratches on the genital area. We assume that the provider did not watch while this happened which says very plainly that she had no control or protective supervision of the children in her care.

7.2.b/7.2.d-Why do we not apply the same height of 36 inches to both regulations. 7.2.b does say hand railings, so we assume one on each side, but there is no mention of protective sides to the rails, so that children won't fall under the rail to the ground. We suggest lattice sides that run to the ground level so that the children won't fall off the sides of the stairs and can't crawl under the steps. Also these steps should be permanently affixed rather than the little metal steps that often are seen at mobile homes. Risers would also be helpful so that the child can't fall between the steps.

7.2.c.1- Define lattice gate.

9.3.b-Specify mulching under jungle gyms or pea gravel and use the depth of 4 inches for the ground covering.

9.3c-We would like to have the trampolines prohibited.

Also concerning outdoor play space, we think that there should be some play space available for outside play even if it is a local park, but we feel the provider should be able to tell us how they will safely get the children to that space. (One provider told us she took 2 infants and 2 toddlers,

and a cooler for 20 blocks to Ritter park, walking). We also think the regs should address the safety of the outside play area. For instance, if the house sits next to a creek, a cliff or a busy highway, we should be allowed to request a fenced in play area.

11.1-We suggest that locking ladders are not a deterrent. Climbers just use them for footholds. Also the regulations should specify a type of fence or at least specify that it be sturdy enough to resist falling over when children try to climb on it.

Other notes to be considered-

1. Fingerprinting at orientation would be helpful. It would better insure the safety of children. Providers with convictions would be found more quickly since we don't even get the CC-9's back for 30 days after orientation.
2. If there is reasonable cause to believe that providers are committing fraud (for example, parents who give us written statements that their children were not in care during time periods for which the provider is billing), we should be able to suspend the provider's service until an investigation is completed by IFM.
3. We feel that providers who take care of both subsidized children and private pay children should keep the same records on the private pay children. Those children should be signed in, should have emergency notification forms and medical forms but this is not specifically addressed in policy.

- 7.4b. Please address apartments.
- 7.4c. How does this affect apartments and how far from the ground should it be outside.
- 7.5B. Cannot run under carpet or across walkways unless covered by a protective coating and Stabilized.
- 8.1.b Should say "primary (doors) and secondary (windows).
- 8.1.C. Records to be made available to the CCS upon request.
- 8.2.b.1. Carbon Monoxide Detector should be the plug in type with a battery back up. No digital Required.
- 8.2.b.2 How we will verify the oxygen depletion sensor is properly functioning.
- 8.2.c. Non-flammable ...with openings no larger than 2 3/8".
- 8.2.e. Must be stored outside of the home while children are in care.
- 8.2.6. Pressure relief valve must be plumbed to the outside to prevent scalding of children.
- 8.3.b. The Plug in type with the battery back up, no digital requirements.
- 8.3.c. Working Batteries installed at all times.
- 8.3.D. Batteries will be checked frequently and be replaced as needed.
- 8.3.e. Should also say "and in the home."
- 9.1.e. Ashtrays need to be included.
- 9.2.a.1 Vaccinations administered by an individual certified to administer Rabbits vaccination.
- 9.2.b. Who specifically do they call?
- 9.3a. Should say " Play areas shall be free from unsanitary or hazardous items, including but not limited to.... or other hazardous items/conditions.
- 10.1.a.3. Isolate a sick child...until a parent can be contacted to pick up the sick child.
- 10.1.B. On a daily basis for each day the child needs medication. Once form should be completed for each medicine with the specific information about the medication.

- 10.1.b.2. The provider shall maintain a record of the dates and times the medicine was administered and who administered the medication.
- 10.1.c.1. Should say "have not reached their sixth birthday.
- 10.1.c.2. Should specify Children's Medical Exams.
- 10.1.c.3. "...are completed **and updated**...
- 10.1.c.4. Schedule/documentation from the physician for completion within 30 days.
- 10.2.c. If the main source of water is a well, then testing by the Health Department should be required. The test results shall be made available to the CCS upon request.
- 10.2.d.4. What about provider bathroom use?
- 10.2.f. Food and drinks
- 10.2.g.1. Trash cans shall be lined with liners.
- 10.2.g.6. Screens that are in good repair and cannot be removed by children.
- 10.3.a. If a provider is not participating in the Food Program, the provider shall maintain records of their menus and these records shall be made available to the CCS upon request. Providers shall provide all food except baby formula and baby food.
- 10.3.c. Some providers have no tables. How do we address this? Booster seats also need to be addressed, they should be prohibited as they are not safe.
- 11.1.e. "...with a key operated lock."
- 11.2.a. Should say "A family Day Care Provider", not home.
- 11.2.a. How do we verify the adult is a swimmer? We recommend a signed statement from the provider.
- 11.1.c. Locking ladder remains locked when the ladder is not in use.
- 11.1.b Pumps/filters should be behind a protective barrier to prevent access by children.
- 12.1.b. Take out caregivers records, it should read "maintained in the child's individual records.
- 12.1.d. Forms must be notarized.
- 12.2.a. "...and kept together in a portable container."

12.2.b7. Just say band aids.

12.2.b. Choking Guide needs to be included.

???Do monitors check car insurance and Inspection Stickers? If so, this needs to be included on the checklist.

14.2. Are we holding people to a hirer standard of care?

15.1.c. Rules need to be written.

15.2.a.1. Should include smacking the hands of toddlers.

15.2.a.7. Forcing a child to do something they are extremely afraid of doing.

16.2.a.3. **Do not prop bottles.**

16.3.b.2. Empty and sanitize.

17.1.a.3. How do we verify?

17.2.a.5. Should also say clean towels and clean water.

18.1.c. A family Day Care Provider shall keep their sign in/out forms for two years.

18.2. Caregiver will notify Law Enforcement immediately if they suspect the parent is intoxicated when they pick up their child.

19.1.A. A Family Day Care Provider shall report immediately...

19.2 A family day care home shall report all household changes within 72 hours...

19.3 a.b.c All within 72 hours

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Wed, Jul 17, 2002 10:34 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 152.163.188.225
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.01; AOL 4.0; Windows 98; Compaq)
Date: Wednesday July 17, 2002
Time: 10:38 PM -0400

Comments:

The new family child care rules were easy to read and gave some good guidance for quality child care. The changed requirements for training will be very helpful. Is there a way to make wading pools safe and sanitary?
Thanks.

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Thu, Jul 18, 2002 12:05 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.17.80
Remote User:
HTTP User Agent: Mozilla/4.7 [en] (Win98; I)
Date: Thursday July 18, 2002
Time: 12:09 PM -0400

Comments:

Should have written verification from County Health Departments that well water is safe and show it to the monitor and maintain in providers file.

Provider should maintain a supply of batteries for flashlights and smoke alarms and carbon monoxide detectors.

Providers homes should have fans and or Air Conditioning in use for extremely hot days and give frequent liquids to children.

Section 7. 2 c. 1 Lattice gate are prohibited need more explanation of what his refers to and what would be acceptable.

General Medicals on children should be done on all age children and in care with lists of medications and times that they are to be given .

All household members in the providers home should have submit written statements from a physician that they are free of contagious diseases.

Janet Ocheltree
Child Care Specialst

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Thu, Jul 18, 2002 1:19 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.17.80
Remote User:
HTTP User Agent: Mozilla/4.7 [en] (Win98; I)
Date: Thursday July 18, 2002
Time: 01:23 PM -0400

Comments:

COMMENTS ON PROPOSED FAMILY CHILD CARE HOME REGULATIONS

SUBSTITUTE POLICY I think that this policy should be consistent with other child care policies and should only be used in extreme emergencies for a short period of time, if the provider needs to be gone longer than a week then the parent should be taking the children to another registered provider rather since the registered providers have had background checks completed and are supposed to meet the health and safety standards as required by law. Therefore not putting the children in the hands of an unknown individual that might be harmful to them, and parents do not always make the right decisions either. If we allow substitute then they should have to have the same standards in their background and physical place should meet the health and safety standards. I think this policy should be consistent with centers and facilities.

Janet Ocheltree
Child Care Specialist

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Thu, Jul 18, 2002 1:32 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.17.80
Remote User:
HTTP User Agent: Mozilla/4.7 [en] (Win98; I)
Date: Thursday July 18, 2002
Time: 01:36 PM -0400

Comments:

SECTION 6.6.6.A WHERE it says that a provider can have 6 children under 13 years old. Then 6.6.6.1 talks about children being under 6 who live in the home so is it to be 6 and under or 13 yrs. personal opinion it should be thirteen I think this needs to be looked at a little closer.

Janet Ocheltree,
Child Care Specialist

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Thu, Jul 18, 2002 5:38 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.17.120
Remote User:
HTTP User Agent: Mozilla/4.7 [en] (Win98; I)
Date: Thursday July 18, 2002
Time: 05:42 PM -0400

Comments:

COMMENTS ON PROPOSED FAMILY CHILD CARE HOME REGULATIONS (§78-19):

3.18 Substitute. - An individual who care for children when the caregiver is absent and is responsible to the caregiver.

I think this is a mistake to infer that the responsibility is not WVDHHR's. §49.2B.1.e.5 of the WV Legislative Code states:

To ensure that all child care programs be safe, reliable and geared to the ages and needs of the children they serve, meet basic health and safety standards, and employ people who have the training and experience needed to work with children.

This section states all child care programs must meet these standards. I would interpret that to include substitutes as well as the family provider. The Department has the obligation to ensure that the "employees," as well as the provider, meet these basic standards.

§49.2B.1.d also states ". . . In order to carry out the above policy, the Legislature enacts this article to protect and prevent harm to children separated from their families. . . ." The Legislature clearly has placed the Department in the role of guaranteeing the safety of the child when the parent is absent. Although the Department then places the approved provider in that role with her care, I do not think the Department can and should give this person the authority to delegate this role, yet again, to another entity. If the child is in someone's care whom we do not know and is in an unknown or uninspected location, then I think the Department is at fault and faces potential risk of not fulfilling our legal duty.

The provider should be required to notify the Child Care Specialist, who oversees her or his case, that a substitute is going to be used and the name of this person. I think any substitute should be subject to background checks at a minimum. It should be stated clearly in the regulations that any substitute's care only is provided in the provider's home or that the substitute's home has to be inspected and approved with the same standards we apply to any other child care provider's environment. In defense of this position, I suggest that regulations 4.4.a and 4.4.b do not allow the certificate of registration to be transferred to any other location or allow the provider to provide care in any location other than his or her home. Any other arrangement may put the child at unnecessary risk. If the Department is responsible for a child (and possibly paying for this child's care), then the Department should be able to substantiate the child's safety and location without delay.

If there is a true emergency with the provider's situation, then, obviously, the full measure of these suggestions may not be applicable. She or he may have to find someone to watch the children immediately. However, it has been my experience that most substitute situations involve prior knowledge of the provider's need to leave the home. At least two of the children's deaths, I am aware of, that occurred in approved child care situations involved inappropriate "substitute" care givers.

In light of my reservations regarding the responsibility of substitute care givers, I believe the proposed regulation:

6.7.d. The caregiver shall use a substitute for no more than two (2) consecutive full weeks annually or more than an average of eight (8) hours weekly.

is far too generous as it allows an unscrupulous child care provider to "sublet" a child's care for up to the equivalent of 52 workdays a year. If a provider has a need to have this much substitute care, then I think it is the Department's responsibility to require the parent(s) to find a second approved provider instead of allowing this situation to occur.

Regulation 4.6.a states:

The Secretary may place limitations on a certificate of registration based on findings of:

4.6.a.1 Insufficient space in the home.

4.6.a.2 Inadequate sleeping areas.

4.6.a.3 The provision of other home-based services, such as foster care and adult family care; or

4.6.a.4 The corrective action plan approved by the Secretary.

I believe that this section should be amended to clearly state that if the Child Care Specialist finds any situation that she or he believes is potentially dangerous, e. g., construction in or around the home or other environmental hazards, that the certificate can be limited as stated in regulation 4.6.b. Some situations cannot be rectified by a corrective action plan as the hazard is either permanent or not controllable by the provider.

In regulation 5.1 I think the use of the word, "reasonable," should be defined concretely. For example, I have been told by providers that even though they were providing many nights of overnight care, that I had no right to inspect their homes at these times they were providing care. "Reasonable" should be defined clearly to include all hours of care and any other issues that impinge on the quality and safety of their situation of child care. There should be no question that the safety of children, while in care, can be limited by the provider's wishes. Although §49-2B clearly states the service provider is not to be "over-encumbered by . . . regulation," it also gives equal weight to the "need for protection" for children in care.

A similar issue of clarity is found in regulation 5.3 in the assertion that ". . . the caregiver shall provide access to the premises and to all aspects of the family day care home operation. . . ." It needs to be stated clearly that an inspection must provide access to all rooms or buildings if the Child Care Specialist deems that necessary or that the refusal will result in closure or denial of certification. Many times I have been told that the provider does not have a key to a locked room or entire section of a house as I was conducting an inspection. When I have pressed them, their response is that child care is not provided in that area. However, I do not know if the room(s) truly are not accessible to children in care, even if they are not used for child care.

Regulation 6.2.b requires a provider or family member to submit to a physical or psychological exam if needed. However, it does not specify what actions can be taken by the Department in light of the conclusions of the examiner. It should state that this assessment can be used to either deny or to place limitations on the certificate if the examiner believes this is appropriate.

Section 7.2, "Safety Barriers," needs to be defined more clearly. For example, 7.2.c reads: Safety gates shall be installed at the top and bottom of stairs when infants and toddlers are in care. Does this mean all stairs, even ones these children will not be using, e. g., outside the rooms in use, have to be gated? I often am told that no one uses that porch, even though it appears to be a convenient entrance to the home. "Installed" is problematic as well. Does this gate have to be permanently attached to a sidewall? 7.2.c.2 suggests that the gates (and the manner of how they are installed) are somehow distinct from one gate to the next, depending upon their location. The use and regulation of gates is unclear.

7.2.c.1 refers to "lattice." Does this refer to a material a child can penetrate with a hand? In other words, does a safety gate have to be a solid, i. e., without any openings, structure or is it referring to some specific product? This illustrates a similar issue as mentioned in 7.2.d, ". . . secure, child-proof railings and barriers." I have had many arguments with providers over the inspection of a corrective action plan-required installation of some structure, e. g., a gate or railing, that I did not consider "safe." They contend that their installation is safe and I have nothing specific to refer to for justification of my decision.

I believe these regulations should have the same level of specificity as described in 16.1.a.1 regarding infant crib slat spacing. "Secure" and "child-proof" should only be used in conjunction with specified measurements of size of gap, minimum or maximum height, weight, etc. If there is a national, state or accreditation body's standard that could be applied to the specific situation, then that might provide a easily applied and defended standard that the Department could adopt and refer to in the regulations.

Section 7.4, "Emergency Exits," states in 7.4.b that a second exit can be a window. 7.4.c does specify a height limit for it to be considered a second exit. However, the standard does not specify if this window can be used as a realistic exit. That is, can the provider demonstrate (and should demonstrate) that she or he can open it easily? Is there an elaborate storm window that may limit the use of the window in an emergency? Is there a huge piece of furniture that blocks quick access to working the window mechanism and opening it? I have had providers point to almost any type of window and insist this is their second exit when pressed on the use of some rooms.

In regulation 8.2.c a protective barrier, guard or screen is required. Can this be the cool-to-the-touch casing of a stove, etc., or is this a requirement for a separate, free-standing barrier? Some stoves are constructed with a double wall that provides a heat barrier in case of contact.

Regulation 8.2.g states:

Hot water tanks shall be equipped with a pressure relief valve in an area inaccessible to children. I am not certain just what this requirement is and how to administer it. Does this mean the pressure relief valve only, is to be inaccessible or does it mean that all hot water tanks are to have such a valve and the tank, itself, is to be in an area not accessible to children? Many homes have a hot water tank placed in the corner of a room. Can the provider just place a "child-proof" barrier around the tank or is the entire room (the "area") to be off limits to children?

Section 8.2, "Heating," has two statements on the requirement for a digital CO monitor. 8.2b.1 requires installation with the use of any unvented heaters. 8.3.b also mentions the requirement for one in any residence with any "gas appliances," etc. I would interpret 8.3.b to require any home with a natural gas-fired kitchen cooking stove or natural gas-fired central heating system, for example, to have a digital CO monitor installed. Is this what is required by this regulation? If so, almost every home I have visited will have to install one.

Regulation 9.2.a.4 refers to "ferrets" and "wild animals." I have heard the argument that "That animal isn't wild anymore, it has been tamed." If the purpose of this regulation is to keep non-domesticated or exotic animals out of children's reach, then I think it should be worded more specifically.

The regulation 10.2.c on non-municipal water sources specifies that testing shall be completed but it does not specify by whom. Should the owner be allowed to conduct the testing or shall the water be tested by some independent and certified laboratory, such as the local Health Department office?

Section 78-19-11, "Water Safety," has two ambiguous statements. Regulation 11.1.c.1 states:

A fence that connects from the top of the pool and extends at least two (2) feet above the pool with a locking ladder attached. . . .

Is this fence to be physically attached to the pool side itself and can this ladder interrupt the continuity of this two foot fence or does it have to allow entry to the pool interior above this two foot level? I find this statement quite confusing and I have not had anyone be able to explain it in a satisfactory manner after

reading this section.

The alternative included in 11.1.c.2 is clear, but 11.1.c.3 should specify that the gate has the same height requirement. I have inspected pools where the gate did not meet the height of the fence. I do get arguments of this specificity from providers and would hate to have to go to a hearing and have my decision overturned by a technicality like the distinction of a "fence" as opposed to a "gate."

James Richards,
Child Care Specialist
WVDHHR, Clarksburg

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Thu, Jul 18, 2002 9:28 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 205.188.209.9
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 5.5; AOL 6.0; Windows 98; Win 9x 4.90)
Date: Thursday July 18, 2002
Time: 09:33 PM -0400

Comments:

I have spent 2 hours reading thru this and I havent been able to finish. so i printed this out. what I did read was very informative and what i felt "needed quidlines". I hope that all family daycare providers will have to meet the quidlines and that all the monitors in the state will be diligent in enforcing this regs. I run a top notch family daycare at a greater expense than what I get in return money wise. I feel that as in Maryland we should be able to have 8 children instead of six. There is a great need for more providers that offer more than babysitting services and alot of children that need us to be the people that provide: love, care, learning and laughter in their lives. So many of the providers are not educated enough to help the children, nor do they want to do this. I feel that since I do this already that I should be able to provide to more children and raise the fees that I ask. I also take Mountainheart children and I lose money on these children. The state should pay more to the providers that are producing programs for their children .I spend more time and money on educational material and toys then I collect in fees. Perhaps the state needs to cater to the providers that produce a quality daycare, whether private pay or state reimbursed, so that these individuals dont become so overwhelmed by the quidlines and quit due to the financial losses they incur. I love what I do. I love my children. I am also investing in their futures at a financial loss to myself. I take tremendous pride in my efforts. These children deserve the best that the parents, providers, and our state has to offer. I know that everything boils down to money....so please stop cutting the budget for children. I can not endure the financial loss and eventually I, too, may have to get out of daycare with out the states help for providers. Cutting the budget removes mothers from work, because providers cant take the losses either, so they drop the Mountainheart children. The Welfare will fill back up and everyb

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Fri, Jul 19, 2002 2:44 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.92.76
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 4.01; Windows 95)
Date: Friday July 19, 2002
Time: 02:48 PM -0400

Comments:

I am a Training Specialist at Connect CCR&R, and have comments on the following:

- 6.1.a.3. Exemptions to rule? i.e. R&R personnel, such as behavior specialist, mentor, trainer, when provider needs assistance
- 6.3.a.1. Does this count as health and safety training for the year?
- 6.3.a.3. How will this be tracked? Most of our trainings contain several core areas. "After School Care", eg, contains all of them. Are there plans to hire additional trainers, as this means twice as many per provider?
- 6.6.a. At one time? Or all together?
- 6.6.b. What about foster children?
- 9.1.e. Typo - word used twice (ashes)
- 9.2.a.1. What about rabbits, guinea pigs, etc.? Are wild animals allowed.
- 9.2.a.2. Include word "injured" as well
- 9.3.a. What about septic tanks?
- 9.3.b. What about ground protection/cover?
- 10.1.c.3. Immunization Schedule should be included.
- 10.2.d.5. Should mention Universal precautions for blood?
- 10.2.g.1. What about liners/plastic bags?
- 11.1.e. Fitted hard cover with locks (I have one and kids got into it when it wasn't locked.)
- 13.2.a.1 In back seat only!
- 13.2.a.2. All children under 13 should ride in the back seat. Booster seats should be required up to 80 lb., as per USTSA
- 14.1.b.2. Don't others have to rest, at least?
- 14.1.b.4. What are guidelines for "weather permitting?"
- 16.2.a.3. Why would you lower the age?
- 16.2.a.7. No soft pillows, stuffed animals, etc. in infant bed during sleep.
- 16.3.b. ONLY when age appropriate
- 17.1.a.1. Typo? ("placed" - redundant)
- 17.2. What about water temperature?

Most of these comments have come from provider questions; a few are from personal experience. I do think the overall wording is confusing at times, as in 10.1.b.2.

6.1 says, "The Caregiver shall be... 6.1.a.1. and the first 6.1.a.2. make sense, 6.1.a.2. should not be used twice and the third one doesn't continue in the same form. The form keeps changing throughout the document, and this may confuse some people. Many providers are not good readers and have difficulty with meaning, and explaining it to them could be more difficult due to this.

From: James Richards
To: Kay Tilton
Date: Thu, Jul 18, 2002 4:54 PM
Subject: Comments on Proposed Family Regulations; Fire Marshall's Fire Drill Form

I have attached my comments on the revised, proposed regulations. My compliments to whomever rewrote them; they are much better, overall, than the draft version we received. Of course, I have not been able to resist my probably neurotic need to hack away at them. I also am sending my comments to the public comment section on the OSS page.

The second attachment is a form I found on the State Fire Marshall's forms page on their web site. I have been giving it to providers and, if a written record of fire drills now is going to be required of providers, I would like to suggest that we try to get permission to reproduce it as an appendix to the new regulations.

If you are interested, I have extra copies of Dr. Kutner's handout that he prepared for the audience in the QT conference on 1 June 2002. It was a great presentation and I am sorry you had to miss it. He is a very good speaker (and entertainer) and there was a lot of audience participation. I will be happy to send you a copy. He gave them a LOT--38 pages with the exercises.

James

From: <DHHR Web>
To: <michaelpack@wvdhhr.org>
Date: Fri, Jul 19, 2002 4:20 PM
Subject: FDC Rules Public Comment Submission

Submit: Submit Comments
Remote Name: 10.169.72.132
Remote User:
HTTP User Agent: Mozilla/4.0 (compatible; MSIE 6.0; Windows 98; Q312461)
Date: Friday July 19, 2002
Time: 04:24 PM -0400

Comments:

Comments from MountainHeart North Child Care Resource & Referral Agency:

Con's
Items that we have comments about:

78-19-6 6.1.a.2. The caregiver, substitute, and all household members shall not use alcoholic beverages or illegal substances while the children are in care and shall not be under the influence during the time children are in care.
(Could this also pertain to smoking while children are in care?)

78-19-6 6.3.a.1. Basic first aid that includes rescue breathing and choke saving within six (6) months of registration.
(Does this or could this also include CPR training?)

78-19-6 6.5.c. When supervising outdoor play, a caregiver shall remain outdoors with the children when:
6.5.c.1. There is a pool, pond, hot tub, or other body of water; or
6.5.c.2. There are children six (6) years of age or younger present.
(Does this mean that children are being allowed outside unsupervised? Example: The provider has no pool, pond, hot tub, or other body of water, but maybe lives near a high traffic area and has three 7-year-olds?)

78-19-6 6.6.b. The number of children in the family day care home includes:
6.6.b.1. Children under six (6) years old who live in the home.
(Does a provider's 5-year-old count when that child is in kindergarden or not at home?)

78-19-10 10.1.c.1. Medical examination records are updated every two (2) years.
(A child's medical should be updated more often than 2 years. Too much can change during childhood years).

78-19-16 16.2.a.3. Hold infants six (6) months of age and younger while bottle-feeding.
16.2.a.4. Hold infants and toddlers with special needs over six (6) months of age while bottle-fed until they are able to hold their own bottles securely.
(Holding children any time they are bottle feeding. Current regulations state children nine (9) months and younger. Seven months is too small to not be held)

Pro's
Items that we feel are desirable improvements:

78-19-6 6.1.a.2. Able to read and write.
(This will definitely help raise the "quality")

78-9-7 7.1.a. A family day care home shall have the following utilities:

7.1.a.1. Heat, electricity, indoor plumbing, and a working telephone.
(The provider should have a working telephone on-site, as compared to current regulations that state a phone within 10 minutes.)

Thank you.

July 16, 2002

Office of Social Services
35 Capital Street Room 691
Charleston, WV 25301
Atten: Childcare Division

Dear Office of Social Services

This letter is a representation of our Day Care Association in the Eastern Panhandle. There are over 300 day care providers in this area, and although they are not all members of our association, we all have the same concerns about the day care regulations and some of the new proposed ones. Due to this late date, we agreed that we should write one letter because multiple letters would not receive the proper attention. There are some providers in our area that did not know about the proposed changes. Are local R& R (Mountainheart) notified only providers that take state-subsidized children. Any provider that takes only private children were not notified.

We hope that you take our concerns very serious and take the time to read our letter. We work very long hours for very little pay and we feel that we are being taken advantage of. We get very little respect as professionals. But on the other hand, we are expected to upgrade our trainings that cost us money. Our local R& R that offer us trainings, only providing trainings during weekdays. This causes providers to pay for a substitute. West Virginia wants quality childcare. This is what we want to. Though, West Virginia is not willing to pay for it. This is why there is such a turnover of providers. You must be dedicated to do this job, and the ones that last truly are. These children are our future and we as providers have a very large part in molding and shaping them to be responsible adults. There should be more consideration on how providers are being treated. For many of us, this is our livelihood.

Without us, parents could not work and many more of them would be dependent on the state for assistance. Day care should be high up on the law makers list. We are all aware of how far behind West Virginia's child care policies are, but some of the new proposed policies are not creating a better solution for day care providers. They are adding more restrictions on us. It seems that the lawmakers want us to be more structured and formal with our family daycare. We are not facilities and centers and thus, we should not be treated as such. They receive more pay per child than we do. Parents put their children in family daycare because they want their child/children to remain in a home atmosphere while they are at work. If they wanted a structured school setting, they would have put them in a center or preschool.

One of the proposed regulation changes is the amount of square footage per child. They are proposing 35 square feet per child for family day care. This is the amount of square footage that facilities are supposed to have and again get paid more money for their subsidized children. If the amount of square footage is changed, this will cause a lot of quality day care homes to be closed. The existing square footage has worked out well. As long as the children are safe and the area is clean and there is room for the children to play and sleep at rest time, there shouldn't be any further changes on the providers amount of space. This should be at the discretion of the monitors to make that judgment.

Maryland and Virginia are our neighboring states and their providers are paid more per child, per day than we are. They are also allowed to take care of more children than we are. It appears to us that our legislators have little faith in us as childcare providers. We work under pressure knowing that if the state monitors us and we are found to have over 6 children due to overlaps, that we will be closed. The state is making our job very hard for us to do. We are not even allowed to have a transition period for change of shift. Very often one parent needs to be at work before another parent comes to pick up their child. We have no control over this and most of the time the parents do not either. Virginia works on a point system that allows for a provider to have more children based on their ages. This system works out better, because once a child turns 16 months of age the points begin to drop. Finding toddler care has been a real problem for some parents. If they have children over 2 but have a toddler, they still have to find a provider with an open infant spot. Those spots are rare. In this case, the parents would have to take their children to more than one provider. This is an inconvenience for the parent and children in the same family need to stay together.

Day care providers for non-traditional hours are needed but the increase in pay for those hours were taken away from providers due to budget cuts. There is no incentive for us to care for children during the non-traditional hours. Some of us still watch children during these hours, despite the fact that we no longer get paid extra for it. With all the new welfare reforms and parents not needing day care before, but now do. Placing children in extended hours day care is becoming increasingly difficult. What is happening is children are being turned away, and when they can not be placed with a certified provider, they are being left at home with an older sibling or someone much too young to have that type of responsibility. Sometimes parents do not have the choice because of the lack of certified caregivers providing non-traditional hours.

We would like for you to review the day care policies of our state and see where some changes could be made. Changes that are very overdue. A lot of the providers are not willing to take subsidized children for what we are being paid. If we were allowed to have more than six children, then we could use the extra spaces to accommodate the overlap. We feel that we are just as capable as women and men in other states to care for more than six children. We have good people that monitor us and can tell if we are not doing our job correctly. Also, parents will complain when things are not as they should be.

We would like to thank you for your time and ask that you review our concerns. This is a very serious matter and it needs your attention.

Thank You,

Tri-County Family Child Care Association

Page 1 of 6

Janice Pigott
307 Liberty Ave
Clarksburg WV 26301
304 622-0773

WV OSS

Division of Child Care Services

Kay Tilton, Director

Fax Number 304-558-8800

Telephone 304-558-2993

Dear Ms. Tilton:

The comments on the following pages are in reference to the public comment period for WV Division of Human Services Legislative Rule Title 78, Series 19 Family Day Care Home Registration Requirements.

1. Who comprised the Committee of family daycare providers and staff which devised this proposed rule?

2. I offer a suggestion that when similar terminology is used throughout the various registration/certification/licensing requirements that the terminology be "standardized". As an example:

in the Family Day Care Home Registration Requirements

The term "Corrective Action Plan" is defined in 3.16. In the Day Care Centers Licensing section 3.40 and Family Day Care Facility Certification Requirements Section 2.8 the term "Plan of Correction" is used.

While this may seem trivial, it may also, if "standardized" help prevent confusion and/or mis understandings among/between WVDOS personnel and care providers.

"Sanitize" has different meanings in family home vs Day Care Center

3. Consistency between the "Core Competencies" requirements is also suggested. In the Family Day Care Home Registration Requirements these Core Competencies are defined in Section 3.5 and an Appendix with further details is attached. The Day Care Centers Licensing document defines them in section 3.11 But does not provide a reference to appendix 78-1 A which details them further

4. What is STARS? Where is it located on the WVDOS website? Does it include colleges and universities that offer courses in child development? If it does not, why? Working toward a college degree is surely equivalent to (or superior to) an "Apprenticeship"

program or WV training certificate evidenced by the requirements of college credits/degree by a Day Care Center Director.

A person who operates a family day care home should also be given the flexibility to attend college courses at an accredited college as a substitute for Dept of Labor Courses or WV training Courses.

5. With regard to "required training" are there incentives and/or financial aid available? I'm not aware of the cost, but for a family home or facility with limited enrollment, thus limited income, the cost of such courses could become prohibitive or place undue hardship relating to the cost of the course or time required to be spent out of their home taking the courses, when it would be more beneficial for them to be caring for children. Are evening/weekend courses available in a variety of locations throughout the state?

If there is no "financial aid" available, the Dept should consider such a program.

6. Is there a Database of registered Family Day Care Homes + Facilities in WV? If so where. The only ones I found were of licensed Day Care Centers. How often is the database updated?

7. What is the reasoning behind the requirement that windows are to be located no more than 44 inches from the floor?

8. Why are homes required to have Smoke and Carbon Monoxide detectors, but Day Care Centers not required to have them? Shouldn't ALL facilities caring for children be required to have such detectors? Same comment for fire extinguishers.

9. Why are Family Homes ~~not~~ not allowed to have Children's Pools? If such pools are required to be directly supervised and kept clean or use a filtration system they are safe. Day Care Centers have the option to take children water skiing, scuba diving and inner-tubing which seem intuitively more dangerous than playing in a "kiddie-pool". Additionally, Appendix 78-19-E Table C lists "floating toys" as age appropriate Equipment and Materials.

15. Section 6.3 should clearly set forth "certified training in CPR + First Aid" additionally a requirement for child/infant CPR should apply if children under 2 years of age are being cared for in the facility.

I personally think a program from the American Red Cross (or American Heart Association) should be a requirement. The Red Cross is geared more toward the general public (while Am Heart Assoc. is geared more toward health care workers).

The Red Cross is specified in the Family Day Care Facility Certification Requirements. (This points back to #2 above in that similar requirements should be consistent throughout the different regulations)

If you have difficulty reading any of this please contact me at: home 304-622-0773 or work 304-842-1259.

If a family home is prohibited from having children's pools, how can "water play equipment" be utilized (short of letting kids play in a sink or tub)?

10. What is the purpose of notarizing emergency forms? What possible motive could a parent have for forging emergency information for their child?

11. Due to the events of 9/11/01 it seems inappropriate to use the term "terrorizing" in Section 15.2.a.7. Perhaps more appropriate terminology could be used.

12. Section 16.2 should specify that children should be held in an upright position when being bottle fed.

13. Section 18.1.a "parental forms required by the Department" should be specified and attached in an Appendix to aid in ease of location and to ensure correct versions of forms are being used.

14. Appendix 78-19-B Some individuals are allergic to Bleach. Alternative Disinfectant and Sanitizing Solutions should be provided.