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TO: KARIN CLARK
Virginia Department of Social Services

FROM: MICHELLE A. L'HOMMEDIU 
Assistant Attorney General

DATE: November 28, 2018

SUBJECT: Final Regulations to Amend Standards for Licensed Child Day Centers to Address Federal Health and Safety Requirements, 22 VAC 40-185 *et seq.* (4492/8313)

I am in receipt of the attached regulations to amend the standards for licensed child day centers to address Federal health and safety requirements, 22 VAC 40-185 *et seq.* You have asked the Office of the Attorney General to review and determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate these regulations and if they comport with applicable state law.

Virginia Code §§ 63.2-217 and 63.2-1734 mandate that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2 and of licensed child day centers. Regulation of such facilities includes the health and safety requirements set out in the federal Child Care and Development Block Grant of 2014. As noted in the letter dated May 23, 2017, it is this Office's view that the State Board has the authority to promulgate the final regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 14 (Amended) (2018), and has not exceeded that authority. To date, the Board has not yet acted on these regulations; and the Agency Background Document available on Town Hall reflects the anticipated future date of Board action.

Certain changes to the final regulation may constitute a change with "substantial impact," and, therefore may necessitate an additional comment period. Other changes between the proposed and final regulations appear merely technical in nature or clarify the language in the regulation, and would not have a substantial impact and would not require additional comment.

Karin Clark
November 28, 2018
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Please note that Virginia Code § 2.2-4013(B) requires that all changes to the proposed regulation be highlighted in the final regulations, and it appears that this requirement has been fulfilled. Also, under § 2.2-4013(C), if the Governor finds that one or more changes with substantial impact have been made to the proposed regulation, he may (but is not required to) direct DSS to provide an additional thirty days to solicit additional public comment on the changes.

If you have any questions or need additional information about these regulations, please contact me at 786-6005.

cc: Kim F. Piner, Esq.

Attachment

DEPARTMENT OF SOCIAL SERVICES

Amend Standards for Licensed Child Day Centers to Address Federal Health and Safety
Requirements

Part I

Introduction

22VAC40-185-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Adult" means any individual 18 years of age or older.

"Age and stage appropriate" means the curriculum, environment, equipment, and adult-child interactions are suitable for the ages of the children within a group and the individual needs of any child.

"Age groups":

1. "Infant" means children from birth to 16 months.
2. "Toddler" means children from 16 months up to two years.
3. "Preschool" means children from two years up to the age of eligibility to attend public school, five years by September 30.
4. "School age" means children eligible to attend public school, age five or older by September 30 of that same year. Four-year-old or five-year-old children included in a group of school age children may be considered school age during the summer months if the children will be entering kindergarten that year.

"Attendance" means the actual presence of an enrolled child.

"Balanced mixed-age grouping" means a program using a curriculum designed to meet the needs and interests of children in the group and is planned for children who enter the program at three through five years of age. The enrollment in the balance mixed-age grouping comprises a relatively even allocation of children in each of three ages (three to six years) and is designed for children and staff to remain together with turnover planned only for the replacement of exiting students with children of ages that maintain the class balance.

"Body fluids" means urine, feces, saliva, blood, nasal discharge, eye discharge, and injury or tissue discharge.

"Camp" means a child day camp that is a child day center for school age children that operates during the summer vacation months only. Four-year-old children who will be five by September 30 of the same year may be included in a camp for school age children.

"Center" means a child day center.

"Child" means any individual under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

~~Exemptions (§ 63.2-1715 of the Code of Virginia):~~

- ~~1. A child day center that has obtained an exemption pursuant to § 63.2-1716 of the Code of Virginia;~~
- ~~2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision regardless of (i) such program's location or the number of days per week of its operation;~~

~~(ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure;~~

~~3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period;~~

~~4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1-1/2 hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;~~

~~5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week;~~

~~6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.), and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;~~

- ~~7. Education and care programs provided by public schools that are not exempt pursuant to subdivision 6 of this definition shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;~~
- ~~8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.), wherein no child attends for more than a total of six hours per week;~~
- ~~9. Practice or competition in organized competitive sports leagues;~~
- ~~10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;~~
- ~~11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day; (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes; and (iii) is receiving or providing services or participating in activities offered by the establishment;~~
- ~~12. A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education;~~

~~the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717 of the Code of Virginia;~~

~~13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments; or~~

~~14. By policy, a child day center that is required to be programmatically licensed by another state agency for that service.~~

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period. ~~Note: This "Child day program" does not include programs such as drop-in playgrounds or clubs for children when there is no service arrangement with the child's parent.~~

"Children with special needs" means children with developmental disabilities, ~~mental retardation~~ intellectual disabilities, emotional disturbance, sensory or motor impairment, or significant chronic illness who require special health surveillance or specialized programs, interventions, technologies, or facilities.

"Cleaned" means treated in such a way to reduce the amount of filth through the use of water with soap or detergent or the use of an abrasive cleaner on inanimate surfaces.

"Commissioner" means the Commissioner of the Virginia Department of Social Services.

"Communicable disease" means a disease caused by a microorganism (bacterium, virus, fungus, or parasite) that can be transmitted from person to person via an infected body fluid or respiratory spray, with or without an intermediary agent (such as a louse, or mosquito) or

environmental object (such as a table surface). Some communicable diseases are reportable to the local health authority.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

"Evening care" means care provided after 7 p.m. but not through the night.

"Good character and reputation" means knowledgeable and objective people agree that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Group of children" means the children assigned to a staff member or team of staff members.

"Group size" means the number of children assigned to a staff member or team of staff members occupying an individual room or area.

"High school program completion or the equivalent" means an individual has earned a high school diploma ~~or General Education Development (G.E.D.) certificate~~, passed a high school equivalency examination approved by the Board of Education, or has completed a program of home instruction in accordance with § 22.1-254.1 of the Code of Virginia equivalent to high school completion.

"Homeless child" means a child who lacks a fixed, regular, and adequate nighttime residence and includes a child who is:

1. Living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar settings;
2. Sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; sometimes referred to as doubled-up;
3. Living in a motel, hotel, trailer park, or camping ground due to lack of alternative adequate accommodations;
4. Living in a congregate, temporary, emergency or transitional shelter;
5. Awaiting or in foster care placement;
6. Abandoned in a hospital;
7. Living in a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or
8. A migratory child as defined in 20 USC § 6399 who qualifies as homeless because the child is living in circumstances described in subdivisions 1 through 6 of this definition.

"Independent contractor" means an entity that enters into an agreement to provide specialized services or staff for a specified period of time.

"Individual service, education or treatment plan" means a plan identifying the child's strengths, needs, general functioning and plan for providing services to the child. The service plan includes specific goals and objectives for services, accommodations and intervention strategies. The service, education or treatment plan clearly shows documentation and ~~reassessment/evaluation~~ reassessment or evaluation strategies.

"Intervention strategies" means a plan for staff action that outlines methods, techniques, cues, programs, or tasks that enable the child to successfully complete a specific goal.

"Licensee" means any individual, [~~corporation,~~] partnership, association, [~~public limited liability company, local government, state~~] agency, [~~including any department, institution, authority, instrumentality, board, other administrative agency of the Commonwealth~~] or [~~corporation~~ other legal or commercial entity that operates or maintains a child day center] to whom the license is issued.

"Lockdown" means a situation where children are isolated from a security threat and access within and to the facility is restricted.

"Minor injury" means a wound or other specific damage to the body such as, ~~but not limited to,~~ abrasions, splinters, bites that do not break the skin, and bruises.

"Overnight care" means care provided after 7 p.m. and through the night.

"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled in or in the process of being admitted to a center.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

"Physician's designee" means a physician, licensed nurse practitioner, licensed physician assistant, licensed nurse (R.N. or L.P.N.), or health assistant acting under the supervision of a physician.

"Primitive camp" means a camp where places of abode, water supply system, or permanent toilet and cooking facilities are not usually provided.

"Programmatic experience" means time spent working directly with children in a group that is located away from the child's home. Work time shall be computed on the basis of full-time work experience during the period prescribed or equivalent work time over a longer period. Experience settings may include ~~but not be limited to~~ a child day program, family day home,

child day center, boys and girls club, field placement, elementary school, or a faith-based organization.

"Resilient surfacing" means:

1. For indoor and outdoor use underneath and surrounding equipment, impact absorbing surfacing materials that comply with minimum safety standards when tested in accordance with the procedures described in the American Society for Testing and Materials' standard F1292-99 as shown in Figures 2 (Compressed Loose Fill Synthetic Materials Depth Chart) and 3 (Use Zones for Equipment) on pages 6-7 of the National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for Your Playground," February 2004.
2. Hard surfaces such as asphalt, concrete, dirt, grass or flooring covered by carpet or gym mats do not qualify as resilient surfacing.

"Sanitized" means treated in such a way to remove bacteria and viruses from inanimate surfaces through using a disinfectant solution (i.e., bleach solution or commercial chemical disinfectant) or physical agent (e.g., heat). The surface of item is sprayed or dipped into the disinfectant solution and allowed to air dry after use of the disinfectant solution on the surface for a minimum of two minutes or according to the disinfectant solution instructions.

"Serious injury" means a wound or other specific damage to the body such as, ~~but not limited to,~~ unconsciousness; broken bones; dislocation; deep cut requiring stitches; poisoning; concussion; or a foreign object lodged in eye, nose, ear, or other body orifice.

"Shaken baby syndrome" or "abusive head trauma" means a traumatic injury that is inflicted upon the brain of an infant or young child. The injury can occur during violent shaking, causing the child's head to whip back and forth, the brain to move about, and blood vessels in the skull to stretch and tear.

"Shelter-in-place" means the ~~facility or building in which a child day center is located~~
movement of occupants of the building to designated protected spaces within the building.

"Short-term program" means a child day center that operates less than 12 weeks a year.

"Special needs child day program" means a program exclusively serving children with special needs.

"Specialty camps" means those centers that have an educational or recreational focus on one subject such as dance, drama, music, or sports.

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.

"Staff" means administrative, activity, and service personnel including the licensee when the licensee is an individual who works in the center, and any persons counted in the staff-to-children ratios or any persons working with a child without sight and sound supervision of a staff member.

"Staff positions" are defined as follows:

1. "Aide" means the individual designated to be responsible for helping the program leader in supervising children and in implementing the activities and services for children. Aides may also be referred to as assistant teachers or child care assistants.
2. "Program leader" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children. Program leaders may also be referred to as child care supervisors or teachers.

3. "Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not personally performing these functions.

4. "Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director. The administrator may perform staff orientation or training or program development functions if the administrator meets the qualifications of 22VAC40-185-190 and a written delegation of responsibility specifies the duties of the program director.

"Therapeutic child day program" means a specialized program, including ~~but not limited to~~ therapeutic recreation programs, exclusively serving children with special needs when an individual service, education or treatment plan is developed and implemented with the goal of improving the functional abilities of the children in care.

" [~~Universal~~ Standard] precautions" means an approach to infection control. According to the concept of [~~universal~~ standard] precautions, all human blood and certain human body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), and other bloodborne pathogens.

"Volunteer" means a person who works at the center and:

1. Is not paid;
2. Is not counted in the staff-to-children ratios; and
3. Is in sight and sound supervision of a staff member when working with a child.

Any unpaid person not meeting this definition shall be considered "staff" and shall meet staff requirements.

[22VAC40-185-20. Legal base authority .

A. Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of residential and day programs for children, including child day centers.

B. Section 63.2-1734 of the Code of Virginia requires the State Board of Social Services to prescribe standards for certain activities, services, and facilities for child day centers. Pursuant to § 63.2-1734, for child day programs that operate at a location that is currently approved by the Department of Education for school occupancy and that houses a public school during the school year, the public school building; vehicles that are owned by the public school and used to transport children attending the child day program; and meals served to children that are prepared by the public school are not subject to inspection or approval.

C. Nothing in this chapter shall be construed to contradict or to negate any provisions of the Code of Virginia which may apply to child day centers.]

22VAC40-185-30. Purpose and applicability.

A. The purpose of these standards is to protect children under the age of 13 years who are separated from their parents during a part of the day by:

1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children; and
2. Reducing risks in the environment.

B. The standards in this chapter apply to child day centers as defined in 22VAC40-185-10 servicing children under the age of 13 that are required to be licensed by the department.

22VAC40-185-40. Operational responsibilities.

A. Applications for licensure shall conform with Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2 of the Code of Virginia and the regulation entitled General Procedures and Information for Licensure, 22VAC40-80.

B. Pursuant to §§ 63.2-1719, 63.2-1720.1, and 63.2-1721.1 of the Code of Virginia and the regulation entitled Background Checks for Child Welfare Agencies, 22VAC40-191, the applicant and any agent at the time of application who is or will be involved in the day-to-day operations of the center or who is or will be alone with, in control of, or supervising one or more of the children, shall be of good character and reputation [~~and ;~~] shall not [~~be have been~~] ~~guilty of an offense as defined in § 63.2-1719 of the Code of Virginia~~ convicted of a barrier crime as defined in § 19.2-392.02 of the Code of Virginia [; and is not the subject of a founded complaint of child neglect or abuse within or outside the Commonwealth] .

C. The sponsor shall afford the commissioner or his agents the right at all reasonable times to inspect facilities and to interview his agents, employees, and any child or other person within his custody or control, provided that no private interviews may be conducted with any child without prior notice to the parent of such child.

D. The license shall be posted in a place conspicuous to the public (§ 63.2-1701 of the Code of Virginia).

E. The operational responsibilities of the licensee shall include, ~~but not be limited to,~~ ensuring that the center's activities, services, and facilities are maintained in compliance with these standards, the center's own policies and procedures that are required by these standards, and the terms of the current license issued by the department.

F. Every center shall ensure that [~~any~~] advertising is not misleading or deceptive as required by § 63.2-1713 of the Code of Virginia.

G. The center shall meet the proof of child identity and age requirements as stated in § 63.2-1809 of the Code of Virginia.

H. The sponsor shall maintain public liability insurance for bodily injury for each center site with a minimum limit of at least \$500,000 each occurrence and with a minimum limit of \$500,000 aggregate.

1. A public sponsor may have equivalent self-insurance that is in compliance with the Code of Virginia.

2. Evidence of insurance coverage shall be made available to the department's representative upon request.

I. The center shall develop written procedures for injury prevention.

J. Injury prevention procedures shall be updated at least annually based on documentation of injuries and a review of the activities and services.

K. The center shall develop written procedures for prevention of shaken baby syndrome or abusive head trauma, including coping with crying babies, safe sleeping practices, and sudden infant death syndrome awareness.

L. The center shall inform all staff who work with children of children's allergies, sensitivities, and dietary restrictions.

M. The center shall maintain, in a way that is accessible to all staff who work with children, a current written list of all children's allergies, sensitivities, and dietary restrictions [documented in the allergy plan required in 22VAC40-185-60 A 8] . This list shall be dated and kept confidential in each room or area where children are present.

N. The center shall develop written playground safety procedures which ~~that~~ shall include:

1. Provision for active supervision by staff to include positioning of staff in strategic locations, scanning play activities, and circulating among children; and
2. Method of maintaining resilient surface.

~~L.~~ Q. Hospital-operated centers may temporarily exceed their licensed capacity during a natural disaster or other catastrophe or emergency situation and shall develop a written plan for emergency operations, for submission to and approval by the Department of Social Services.

~~M.~~ P. When children 13 years or older are enrolled in the program and receive supervision in the licensed program, they shall be counted in the number of children receiving care and the center shall comply with the standards for these children.

22VAC40-185-60. Children's records.

A. Each center shall maintain and keep at the center a separate record for each child enrolled, which shall contain the following information:

1. Name, nickname (if any), sex, and birth date of the child;
2. Name, home address, and home phone number of each parent who has custody;
3. When applicable, work phone number and place of employment of each parent who has custody;
4. Name and phone number of child's physician;
5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;
6. Names of persons authorized to pick up the child. Appropriate legal paperwork shall be on file when the custodial parent requests the center not to release the child to the other parent;

7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;

8. A written care plan for each child with a diagnosed food allergy, to include instructions from a physician regarding the food to which the child is allergic and the steps to be taken in the event of a suspected or confirmed allergic reaction [2:]

9. Chronic physical problems and pertinent developmental information and any special accommodations needed;

~~9. Health information as required by 22VAC40-185-130 through 22VAC40-185-150;~~

~~Exception: When a center is located on the same premises where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for that child provided the school's records are accessible during the center's hours of operation.~~

10. Written agreements between the parent and the center as required by 22VAC40-185-90;

11. Documentation of child updates and confirmation of up-to-date information in the child's record as required by 22VAC40-185-420 E 3;

12. Any blanket permission slips and opt out requests;

13. Previous child day care and schools attended by the child;

14. Name of any additional programs or schools that the child is concurrently attending and the grade or class level;

15. Documentation of viewing proof of the child's identity and age; and

16. First and last dates of attendance;

17. Documentation of health information as required by 22VAC40-185-130, 22VAC40-185-140, and 22VAC40-185-150; and

18. Documentation of the enrollment of a homeless child enrolled under provision of 22VAC40-185-130 C or 22VAC40-185-140 A.

B. The requirements in subdivision A 17 of this section does not apply, and the center is not required to maintain duplicates of the school's health record if:

1. The center is located on the same premises where a child attends school;

2. The child's record has a statement verifying the school's possession of the health record; and

3. The school's records are accessible during the center's hours of operation.

C. The proof of identity, if reproduced or retained by the child day program or both, shall be destroyed upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means.

22VAC40-185-70. Staff records.

[A.] The following staff records shall be kept for each staff person:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering; and name, address, and telephone number of a person to be notified in an emergency which shall be kept at the center.

2. For staff hired after March 1, 1996, documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include:

- a. Dates of contact;
- b. Names of persons contacted;
- c. The firms contacted;
- d. Results; and
- e. Signature of person making call.

3. Background checks as required by the regulation entitled Background Checks for Licensed Child Day Centers (22VAC15-51) Child Welfare Agencies (22VAC40-191).

4. ~~Written information~~ Documentation to demonstrate that the individual possesses the education, ~~orientation training, staff development,~~ certification, and experience required by the job position, and orientation and training as required in 22VAC40-185-240 and 22VAC40-185-245.

5. First aid, cardiopulmonary resuscitation and other certifications as required by the responsibilities held by the staff member.

6. Health information as required by 22VAC40-185-160 and 22VAC40-185-170.

7. Information, to be kept at the center, about any health problems ~~which~~ that may interfere with fulfilling the job responsibilities.

8. Date of separation from employment.

[~~B. Exception: Background check records for independent contractors must be kept in accordance with 22VAC15-51-70 of the background check regulation~~ Background Checks for Child Welfare Agencies (22VAC40-191).]

22VAC40-185-80. Attendance records; reports.

A. ~~The center shall keep a written record of children in attendance each day. For each group of children, the center shall maintain a written record of daily attendance [in each classroom] that documents the arrival and departure of each child in care as it occurs.~~

B. Reports shall be filed and maintained as follows:

1. The center shall inform the commissioner's representative as soon as practicable but not to exceed one ~~working~~ business day of the circumstances surrounding the following incidents:

a. Death of a child while under the center's supervision; ~~and~~

b. Missing child when local authorities have been contacted for help; [~~and or~~]

c. The suspension or termination of all child care services for more than 24 hours as a result of an emergency situation and any plans to resume child care.

2. The center shall inform the department's representative as soon as practicable, but not to exceed two business days, of any [serious] injury to a child [that occurs] while [the child is] under the [center's supervision of the center and requires outside medical attention].

3. Any suspected incident of child abuse shall be reported in accordance with § 63.2-1509 of the Code of Virginia.

22VAC40-185-130. Immunizations for children.

A. The center shall obtain documentation that each child has received the immunizations required by the State Board of Health before the child can attend the center.

~~Exemptions (subsection C of § 22.1-271.2 of the Code of Virginia and 12VAC5-110-110 of the Regulations for the Immunizations of School Children): Documentation of immunizations is~~

~~not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or (ii) physician or a local health department states on a MCH 213B or MCH 213C, or other Department of Health-approved form that one or more of the required immunizations may be detrimental to the child's health.~~

B. The center may allow a child to attend contingent upon a conditional enrollment for a period of 90 days if the child received at least one dose of each of the required vaccines and the child possesses a plan from a physician or local health department for completing his immunization requirements within the ensuing 90 calendar days. If the child requires more than two doses of hepatitis B vaccine, the conditional enrollment period, for hepatitis B vaccine only, shall be 180 calendar days.

C. If a child is homeless and does not have documentation of the required immunizations, the center may allow the child to attend during a grace period of no more than 90 days to allow the parent or guardian time to obtain documentation of required immunizations.

D. Documentation related to the child's conditional enrollment shall be maintained in the child's record.

E. The center shall obtain documentation of additional immunizations once every six months for children under the age of two years.

F. The center shall obtain documentation of additional immunizations once between each child's fourth and sixth birthdays.

G. Pursuant to subsection C of § 22.1-271.2 of the Code of Virginia, documentation of immunizations is not required for any child whose:

1. Parent submits an affidavit to the center on the current form approved by the Virginia Department of Health stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices; or

2. Physician or a local health department states on a Department of Health-approved form that one or more of the required immunizations may be detrimental to the child's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

22VAC40-185-140. Physical examinations for children.

A. Each child shall have a physical examination by or under the direction of a physician:

1. Before the child's attendance; or
2. Within ~~one month~~ 30 days after the first day of attendance.

If a child is homeless and does not have documentation of a physical examination, the center may allow the child to attend during a grace period of no more than 90 days to allow the parent or guardian time to obtain documentation of the required physical examination.

B. If the child has had a physical examination prior to attendance, it shall be within the time period prescribed ~~below~~ in this subsection:

1. Within two months prior to attendance for children six months of age and younger;
2. Within three months prior to attendance for children aged seven months through 18 months;
3. Within six months prior to attendance for children aged 19 months through 24 months; and
4. Within 12 months prior to attendance for children two years of age through five years of age.

C. Exceptions:

~~1. Children transferring from a facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare or social services, registered as a small family day home by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services, or approved by a licensed family day system:~~

~~a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.~~

~~b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with 22VAC40-185-130 and this section.~~

2. C. When a child transfers from a facility licensed by the Virginia Department of Social Services, approved by a licensed family day system, [or] voluntarily registered by the Virginia Department of Social Services [or approved by the Virginia Department of Education] , a new physical examination is not required if a copy of the physical examination from the originating program is maintained in the child's record.

D. Pursuant to subsection D of § 22.1-270 of the Code of Virginia, physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

E. A new physical examination is not required for a school age child if a copy of the physical examination required for his entry into a Virginia public kindergarten or elementary school is kept in the child's record.

[22VAC40-185-160. Tuberculosis screening for staff and independent contractors.

A. Each staff member and individual from an independent contractor shall submit documentation of a negative tuberculosis screening.

~~Documentation of the screening shall be submitted no later than 21 days after employment or volunteering and shall have been completed within 12 months prior to or 21 days after employment or volunteering.~~

1. Documentation of the screening shall be submitted at the time of employment and prior to coming into contact with children.

2. The documentation shall have been completed within the last 30 calendar days of the date of employment and be signed by a physician, physician's designee, or an official of the local health department.

B. Acceptable forms of documentation of tuberculosis screening are:

1. A clearance statement signed by a physician, the physician's designee or an official of the local health department. This statement shall include language that the individual does not have any current symptoms of active tuberculosis, does not have either a risk factor for acquiring tuberculosis infection or a risk factor for progression to active tuberculosis disease as defined by the local health department, or has been treated for these conditions in the past, and is currently free of tuberculosis in a communicable form. Individuals who have a risk factor for progression to active tuberculosis disease as defined by the Virginia Department of Health shall submit documentation as stated in subdivision 2 or 3 of this subsection;

2. The results of a negative tuberculin skin test (TST). The documentation shall include the date the test was given and results of the test and be signed by a physician, physician's designee or an official of the local health department.

3. The results of a chest x-ray negative for active tuberculosis disease. The documentation shall include the date of the test and location where the examination was performed.

C. At least every two years from the date of the initial screening or testing, or more frequently if recommended by a licensed physician or the local health department, staff members and individuals from independent contractors shall obtain and submit the results of a follow-up tuberculosis screening as stated in subsection B of this section.

D. Any staff member or individual from an independent contractor who develops symptoms compatible with active tuberculosis disease, regardless of the date of the last tuberculosis screening or assessment, shall obtain and submit within 14 days a determination of noncontagiousness by a physician or local health department.

1. Until such determination is made, that staff member may not be permitted to work at the center.

2. Any staff member or individual from an independent contractor who comes in contact with a known active case of tuberculosis or who tests positive on a tuberculin skin test, regardless of the date of the last tuberculosis screening or assessment, shall submit within 30 days a statement indicating that all needed follow-up for the incident has been completed and that the individual is free of tuberculosis in a communicable form. This statement shall be signed by a physician, physician's designee or an official of the local health department.]

[22VAC40-185-180. General qualifications.

~~A. No staff shall be guilty of an offense, as defined in § 63.2-1719 of the Code of Virginia.~~

~~B. Staff shall be:~~

~~1. Of good character and reputation;~~

2. Capable of carrying out assigned responsibilities;
3. Capable of accepting training and supervision; and
4. Capable of communicating effectively both orally and in writing as applicable to the job responsibility.

G. B. Staff who work directly with children shall be capable of communicating with emergency personnel.

D. C. Staff who drive a vehicle transporting children shall disclose any moving traffic violation that occurred five years prior to or during employment or assignment as a driver.

E. D. For therapeutic child day programs and special needs child day programs, staff who work with children shall have knowledge of the groups being served and skills specific to the special needs of the children in care including, but not limited to, functional abilities, accommodations, assessment techniques, behavior management, and medical and health concerns.]

22VAC40-185-190. Program director qualifications.

A. Program directors shall be at least 21 years of age and shall meet one of the following:

1. A graduate degree in a child-related field such as, ~~but not limited to,~~ elementary education, nursing, or recreation from a college or university and six months of programmatic experience;
2. An endorsement or bachelor's degree in a child-related field such as, ~~but not limited to,~~ elementary education, nursing, or recreation from a college or university and one year of programmatic experience;

3. Forty-eight semester hours or 72 quarter hours of college credit from a college or university of which 12 semester hours or 18 quarter hours are in child-related subjects and one year of programmatic experience;

4. Two years of programmatic experience with one year in a staff supervisory capacity and at least one of the following education backgrounds:

a. A one-year early childhood certificate from a college or university that consists of at least 30 semester hours;

b. A child development credential that requires:

(1) High school program completion or the equivalent;

(2) 480 hours working with children in a group which could include a supervised practicum; and

(3) Determination of competency in promoting children's development, providing a safe and healthy environment, managing the classroom environment ~~and/or~~ or childhood program, and promoting positive and productive relationships with ~~parents/guardians~~ parents or guardians; and

(4) At least 120 clock hours of child-related training taught by an individual or by an organization with expertise in early childhood teacher preparation provided that the training facilitator:

(a) Documents the student's mastery and competence;

(b) Observes the student's application of competence in a classroom setting;

(c) Has a combination of at least six years of education (leading to a degree or credential in a child-related field) or programmatic experience; and

(d) Has at least 12 semester hours or 180 clock hours in a child-related field, a child development credential or equivalent, and two years of programmatic experience with one year in a staff supervisory capacity; or

c. A certification of qualification from an internationally or nationally recognized Montessori organization; or

~~5. Three years of programmatic experience including one year in a staff supervisory capacity and fulfilled a high school program completion or the equivalent.~~

~~a. Such programmatic experience shall be obtained in a child day center that offers a staff training program that includes: written goals and objectives; assessment of the employee's participation in the training; and the subject areas of first aid, human growth and development, health and safety issues and behavioral management of children.~~

~~b. Such employees shall complete 120 hours of training during this three year period and provide documentation of completing the training.~~

~~c. Effective June 1, 2008, program directors shall meet a qualification as stated in subdivisions 1 through 4 of this subsection.~~

~~6. Exception (a): Program directors hired before June 1, 2005, who do not meet the qualifications may continue to be program directors as long as the program director: (i) obtains each year three semester hours or six quarter hours of college credit related to children until meeting a qualification option or (ii) is enrolled in and regularly works toward a child development credential as specified in subdivision 4 b of this subsection, which credential must be awarded by June 1, 2009.~~

~~Exception (b): Program directors hired or promoted on or after June 1, 2005, until June 1, 2006, who do not meet the qualifications may continue to be program directors as~~

~~long as the program director: (i) obtains each year six semester hours or nine quarter hours of college credit related to children until meeting a qualification option or (ii) is enrolled in and regularly works toward a child development credential as specified in subdivision 4 b of this subsection, which credential must be awarded no later than June 1, 2007.~~

B. Program directors without management experience shall have one college course in a business-related field, 10 clock hours of management training, or one child care management course that satisfactorily covers the management functions of:

1. Planning;
2. Budgeting;
3. Staffing; and
4. Monitoring.

~~*Note:~~ Management experience is defined as at least six months of on-the-job training in an administrative position that requires supervising, orienting, training, and scheduling staff.

C. For program directors of therapeutic child day programs and special needs child day programs, education and programmatic experience shall be in the group care of children with special needs.

D. Notwithstanding subsection A of this section, a person between 19 and 21 years of age may serve as a program director at a short-term program serving only school age children if the program director has daily supervisory contact by a person at least 21 years of age who meets one of the program director qualification options.

[E. A program director employed prior to (insert the effective date of this regulation) who met the education and experience qualifications in effect immediately prior to (insert the

effective date of this regulation) and who has been continuously employed as a child day center director, is considered to have met the requirements of this section.]

22VAC40-185-220. Aides.

[A.] Aides shall be at least 16 years of age.

[B. Aides under 18 years of age may be included as staff in staff-to-children ratios but shall not be left alone with children.]

22VAC40-185-240. Staff training and development orientation.

A. [Staff shall] receive the following training by the end of their first day of assuming job responsibilities [complete a minimum of 16 hours of orientation training appropriate to the age of the children in care. B.] The Virginia Department of Social Services-sponsored orientation course shall be completed within 90 calendar days of employment.

[B. Staff shall complete orientation training in subsection C of this section prior to the staff member working alone with children and no later than seven days of the date of assuming job responsibilities.]

C. Orientation [shall include all topics within this section. training shall be appropriate to the age of the children in care and include all of the following facility specific topics;]

[D. Orientation training for staff shall be completed on the following facility specific topics prior to the staff member working alone with children and within seven days of the date of employment:]

1. Job responsibilities and to whom they report;
2. The policies and procedures listed in subsection B [E. D.] of this section [and,] 22VAC40-185-420 A [, and the standards in this chapter] that relate to the staff member's responsibilities;

3. The center's playground safety procedures unless the staff member will have no responsibility for playground activities or equipment;
4. Recognizing child abuse and neglect and the legal requirements for reporting suspected child abuse as required by § 63.2-1509 of the Code of Virginia;
5. Confidential treatment of personal information about children in care and their families; and
6. ~~[The standards in this chapter that relate to the staff member's responsibilities;~~
7.] The center's policies and procedures on the administration of medication;
~~[8. 7.] Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event such as violence at a child care facility and the emergency preparedness plan as required by 22VAC40-185-550 A through K;~~
~~[9. 8.] Prevention of sudden infant death syndrome and use of safe sleep practices;~~
~~[10. 9.] Prevention of shaken baby syndrome and abusive head trauma, including procedures to cope with crying babies or distraught children; [and]~~
~~[11. 10.] Prevention of and response to emergencies due to food and other allergic reactions including:~~
 - a. Recognizing the symptoms of an allergic reaction;
 - b. Responding to allergic reactions;
 - c. Preventing exposure to the specific food and other substances to which the child is allergic; [and]
 - d. Preventing cross contamination [and] .
~~[11. Prevention and control of disease.]~~

~~B. By the end of the first day of supervising children [E. D.]~~ Prior to working alone with children and within seven days of the first day of employment, staff shall be provided in writing with the center's information listed in 22VAC40-185-420 A and the following:

1. Procedures for supervising a child who may arrive after scheduled classes or activities including field trips have begun;
2. Procedures to confirm absence of a child when the child is scheduled to arrive from another program or from an agency responsible for transporting the child to the center;
3. Procedures for identifying where attending children are at all times, including procedures to ensure that all children are accounted for before leaving a field trip site and upon return to the center;
4. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies, and general emergencies;
5. Policy for any administration of medication; and
6. ~~Procedures for response to natural and man-made disasters~~ Emergency evacuation, relocation, shelter-in-place, and lockdown procedures; and
7. Precautions in transporting children, if applicable.

~~C. Program directors and staff who work directly with children shall annually attend 10 hours of staff development activities that shall be related to child safety and development and the function of the center. Such training hours shall increase according to the following:~~

1. ~~June 1, 2006 – 12 hours~~
2. ~~June 1, 2007 – 14 hours~~
3. ~~June 1, 2008 – 16 hours~~

~~4. Staff development activities to meet this subsection may include up to two hours of training in first aid or cardiopulmonary resuscitation. Staff development activities to meet this subsection may not include rescue breathing and first responder as required by 22VAC40-185-530 and training in medication administration and daily health observation of children as required by subsection D of this section.~~

~~5. Exception (a): Staff who drive a vehicle transporting children and do not work with a group of children at the center do not need to meet the annual training requirement.~~

~~Exception (b): Parents who participate in cooperative preschool centers shall complete four hours of orientation training per year.~~

~~Exception (c): Staff who are employed at a short-term program shall obtain 10 hours of staff training per year.~~

~~D. 1. To safely perform medication administration practices listed in 22VAC40-185-510, whenever the center has agreed to administer prescribed medications, the administration shall be performed by a staff member or independent contractor who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; or administration shall be performed by a staff member or independent contractor who is licensed by the Commonwealth of Virginia to administer medications.~~

~~a. The approved training curriculum and materials shall be reviewed by the department at least every three years and revised as necessary.~~

~~b. Staff required to have the training shall be retrained at three-year intervals.~~

~~2. The decision to administer medicines at a facility may be limited by center policy to:~~

~~a. Prescribed medications;~~

~~b. Over-the-counter or nonprescription medications; or~~

~~c. No medications except those required for emergencies or by law.~~

~~3. To safely perform medication administration practices listed in 22VAC40-185-510, whenever the center has agreed to administer over-the-counter medications other than topical skin gel, cream, or ointment, the administration must be performed by a staff member or independent contractor who has satisfactorily completed a training course developed or approved by the Department of Social Services in consultation with the Department of Health and the Board of Nursing and taught by an R.N., L.P.N., physician, or pharmacist; or performed by a staff member or independent contractor who is licensed by the Commonwealth of Virginia to administer medications.~~

~~a. The course, which shall include competency guidelines, shall reflect currently accepted safe medication administration practices, including instruction and practice in topics such as, but not limited to, reading and following manufacturer's instructions; observing relevant laws, policies and regulations; and demonstrating knowledge of safe practices for medication storage and disposal, recording and reporting responsibilities, and side effects and emergency recognition and response.~~

~~b. The approved training curriculum and materials shall be reviewed by the department at least every three years and revised as necessary.~~

~~c. Staff required to have the training shall be retrained at three-year intervals.~~

~~4. Any child for whom emergency medications (such as but not limited to albuterol, glucagon, and epipen) have been prescribed shall always be in the care of a staff member or independent contractor who meets the requirements in subdivision 1 of this subsection.~~

~~5. There shall always be at least one staff member on duty who has obtained within the last three years instruction in performing the daily health observation of children.~~

~~6. Daily health observation training shall include:~~

~~a. Components of daily health check for children;~~

~~b. Inclusion and exclusion of the child from the class when the child is exhibiting physical symptoms that indicate possible illness;~~

~~c. Descriptions of how diseases are spread and the procedures or methods for reducing the spread of disease;~~

~~d. Information concerning the Virginia Department of Health Notification of Reportable Diseases pursuant to 12VAC5-90-80 and 12VAC5-90-90, also available from the local health department and the website of the Virginia Department of Health; and~~

~~e. Staff occupational health and safety practices in accordance with Occupational Safety and Health Administration's (OSHA) Bloodborne Pathogens regulation.~~

[E. Within 30 days of the first day of employment, staff must complete orientation training in first aid and cardiopulmonary resuscitation (CPR), as appropriate to the age of the children in care.]

~~E. F.~~ Before assuming job responsibilities, staff who work with children in therapeutic child day programs and special needs child day programs shall receive training in:

1. [Universal Standard] precautions procedures;

2. Activity adaptations;

3. Medication administration;

4. Disabilities precautions and health issues; and

5. Appropriate intervention strategies.

~~F. For therapeutic child day programs and special needs child day programs, staff who work directly with children shall annually attend 24 hours of staff development activities. At least eight hours of this training shall be on topics related to the care of children with special needs.~~

~~[G. Staff who are employed prior to (insert the effective date of this chapter) shall complete the Virginia Department of Social Services-sponsored orientation training as required by this section within one year of (insert the effective date of this chapter). This training may count toward staff ongoing training requirements in 22VAC40-185-245.]~~

~~[H. G.] Volunteers who work more than six hours per week shall receive training on the center's emergency procedures within the first week of volunteering [and on annual basis].~~

~~[H. Staff who work 8 hours or less per month shall not be required to complete the Virginia Department of Social Services-sponsored orientation course required in subsection A of this section.]~~

I. Documentation of orientation training shall be kept by the center in a manner that allows for identification by individual staff member, is considered part of the staff member's record, and shall include:

1. Name of staff;

2. Training topics;

3. Training delivery method;

4. The entity or individual providing training; [and]

5. [~~The total number of training hours or credit hours of orientation training received; and~~

6.] The date of training.

22VAC40-185-245. Ongoing training.

A. Staff shall complete annually a minimum of [20 16] hours of training appropriate to the age of children in care.

B. [Exceptions to subsection A of this section are as follows:

1. Staff who do not work with a group of children at the center shall only be required to complete annual training on emergency preparedness and response, child abuse and neglect, and mandated reporter requirements.

2. Staff who are employed at a short-term program shall obtain a minimum of 10 hours of staff training per year.]

[C. In a cooperative preschool center that is organized, administered, and maintained by parents of children in care, parents who are not considered staff shall complete four hours of training each year.]

[Training completed to meet the requirements of this section shall be in addition to completing orientation requirements in 22VAC40-185-240.]

C. Staff who do not work with a group of children at the center shall only be required to complete annual training on emergency preparedness and response, child abuse and neglect, and mandated reporter requirements.

D. Staff who [work with a group of children at the center and] are employed at a short-term program shall [only be required to] obtain a minimum of 10 hours of staff training per year.

[E. Staff who work with children 8 hours or less per month shall only be required to annually complete 8 hours of training appropriate to the age of children in care. This training must only be from the following topics:

1. Child development;

2. Behavior management;

3. Prevention of and response to allergic reactions;

4. Emergency preparedness;

5. Child abuse and neglect and requirements for mandated reporters;

6. Playground safety procedures, unless the individual will have no responsibility for supervision of children during playground activities;

7. Supervision of children; or

8. Medication administration.]

[F. Volunteers who work more than six hours per week shall be required to complete annual training on the center's emergency procedures.]

[D. G.] For therapeutic child day programs and special needs child day programs, staff who work directly with children shall annually complete four additional hours of training. At least eight hours of annual training shall be on topics related to the care of children with special needs.

[~~E. H.~~] Annual training shall be relevant to staff's job responsibilities and the care of children, and include topics such as:

1. Child development including physical, cognitive, social, and emotional development;

2. Behavior management and positive guidance techniques;

3. Prevention and control of infectious diseases;

4. Prevention of sudden infant death syndrome and use of safe sleep practices;

5. Prevention of and response to emergencies due to food and other allergic reactions including:

- a. Recognizing the symptoms of an allergic reaction;
 - b. Responding to allergic reactions;
 - c. Preventing exposure to the specific food and other substances to which the child is allergic; and
 - d. Preventing cross contamination;
6. The center's policies and procedures on the administration of medication;
7. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
8. Prevention of shaken baby syndrome and abusive head trauma including procedures to cope with crying babies or distraught children;
9. Signs and symptoms of child abuse and neglect and requirements for mandated reporters;
10. Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event such as violence at a child care facility and the center's specific emergency preparedness plan as required 22VAC40-185-550 A through K;
11. Handling and storage of hazardous materials and the appropriate disposal of diapers and other items contaminated by body fluids;
- [12. CPR and first aid;]
- [~~12.~~ 13.] Precautions in transporting children if applicable; and
- [~~13.~~ 14.] If applicable, the recommended care requirements related to the care and development of children with special needs.

[F. I] Training on the center's emergency preparedness plan shall be completed annually and each time the plan is updated.

[G. J.] Medication administration [and daily health observation] :

1. To safely perform medication administration practices listed in 22VAC40-185-510, whenever the center has agreed to administer prescribed medications, the administration shall be performed by a staff member or independent contractor who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist pursuant to § 54.1-3408 of the Code of Virginia; or administration shall be performed by a staff member or independent contractor who is licensed by the Commonwealth of Virginia to administer medications.

a. The approved training curriculum and materials shall be reviewed by the department at least every three years and revised as necessary.

b. Staff required to have the training shall be retrained at three-year intervals.

[2. The decision to administer medicines at a facility may be limited by center policy to:

a. Prescribed medications;

b. Over the counter or nonprescription medications; or

c. No medications except those required for emergencies or by law.]

[3. 2.] To safely perform medication administration practices listed in 22VAC40-185-510, whenever the center has agreed to administer over-the-counter medications other than topical skin gel, cream, or ointment, the administration must be performed by a staff member or independent contractor who has satisfactorily completed a training course

developed or approved by the Department of Social Services in consultation with the Department of Health and the Board of Nursing and taught by [an a] registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; or[administration shall be] performed by a staff member or independent contractor who is licensed by the Commonwealth of Virginia to administer medications.

a. The course, which shall include competency guidelines, shall reflect currently accepted safe medication administration practices, including instruction and practice in topics such as reading and following manufacturer's instructions; observing relevant laws, policies, and regulations; and demonstrating knowledge of safe practices for medication storage and disposal, recording and reporting responsibilities, and side effects and emergency recognition and response.

b. The approved training curriculum and materials shall be reviewed by the department at least every three years and revised as necessary.

c. Staff required to have the training shall be retrained at three-year intervals.

[4. 3.] Any child for whom emergency medications (such as albuterol, glucagon, and [~~epipen~~ epinephrine auto injector]) have been prescribed shall always be in the care of a staff member or independent contractor who meets the requirements in subdivision 1 of this subsection.

[5. There shall always be at least one staff member on duty who has obtained within the last three years instruction in performing the daily health observation of children.]

[6. K.] Daily health observation training shall include [the following] :

[a. 1.] Components of daily health check for children;

[b. 2.] Inclusion and exclusion of the child from the class when the child is exhibiting physical symptoms that indicate possible illness;

[c. 3.] Descriptions of how diseases are spread and the procedures or methods for reducing the spread of disease;

[d. 4.] Information concerning the Virginia Department of Health Notification of Reportable Diseases pursuant to 12VAC5-90-80 and 12VAC5-90-90, also available from the local health department and the website of the Virginia Department of Health; and

[e. 5.] Staff occupational health and safety practices in accordance with Occupational Safety and Health Administration's bloodborne pathogens regulation (29 CFR 1910.1030).

[L. There shall always be at least one staff member on duty who has obtained within the last three years instruction in performing the daily health observation of children.]

[H. M] Documentation of training shall be kept by the center in a manner that allows for identification by individual staff member, is considered part of the staff member's record, and shall include:

1. Name of staff;

2. Training topic;

3. Evidence that training on each topic required in this section has been completed;

4. Training delivery method;

5. The entity or individual providing training;

6. The number of training hours or credit hours received; and

7. The date of training.

[N. Medication administration training required in 22VAC40-185-245 J and daily health observation training required in 22VAC40-185-245 K may count toward the annual training hours required in this section.]

Part IV

Physical Plant

[22VAC40-185-320. Restroom areas and furnishings.

A. Centers shall be ~~provided with~~ have at least two toilets and two sinks.

B. Each restroom area provided for children shall:

1. Be within a contained area, readily available and within the building used by the children (~~Exception:~~ (Restrooms used by school age children at camps are not required to be located within the building);

2. Have toilets that are flushable;

3. Have sinks located near the toilets and that are supplied with running warm water that does not exceed 120°F (~~Exception:~~ (Camps are exempt from the requirement that running water be warm); and

4. Be equipped with soap, toilet paper, and disposable towels or an air dryer within reach of children.

C. For restrooms available to males, urinals shall not be substituted for more than one-half the required number of toilets.

D. An adult size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them. Primitive camps are not required to have a toilet with privacy for staff.

~~Exception: Primitive camps are not required to have a toilet with privacy for staff.~~

E. Centers shall ~~be provided with~~ have at least one toilet and one sink per 20 preschool children and at least one standard size toilet and one sink per 30 school age children. When sharing restroom areas with other programs, the children in those programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to the younger age group shall apply.

F. When child size toilets, urinals, and low sinks are not available in restrooms used by children of preschool age and younger, one or more platforms or sets of steps shall be provided.

~~G. School age children of the opposite sex shall not use the same restroom at the same time.~~

H. ~~G.~~ A restroom used for school age children that contains more than one toilet shall have at least one toilet enclosed.

~~I. H.~~ Restrooms used by school age children at primitive camps are not required to have:

1. Sinks, if adequate water, supplies, and equipment for hand washing are available; and
2. Flushable toilets, if the number of sanitary privies or portable toilets constructed and operated in accordance with the applicable law and regulations of the Virginia Department of Health meets the toilet ratio stated in subsection E of this section. No privy or outdoor toilet shall be located within 75 feet of other buildings or camp activities.]

22VAC40-185-350. Staff-to-children ratio and group size requirements.

A. ~~Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children~~ The maximum group size limitations specified in Table 1 shall be followed whenever children are in care.

<u>TABLE 1. Maximum Group Size Requirements</u>		
	<u>Age</u>	<u>Maximum Group Size</u>

<u>1.</u>	<u>Birth up to 16 months</u>	<u>12</u>
<u>2.</u>	<u>16 months up to 24 months</u>	<u>15</u>
<u>3.</u>	<u>2 year olds</u>	<u>24</u>
<u>4.</u>	<u>3 year olds up to school age eligible</u>	<u>30</u>

B. ~~A child volunteer 13 years of age or older not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements~~ The staff-to-children ratios specified in Table 2 are required whenever children are in care.

<u>TABLE 2. Ratio Requirements</u>		
	<u>Age</u>	<u>Ratio (staff: children)</u>
<u>1.</u>	<u>Birth up to 16 months</u>	<u>1:4</u>
<u>2.</u>	<u>16 months up to 24 months</u>	<u>1:5</u>
<u>3.</u>	<u>2 year olds</u>	<u>1:8</u>
<u>4.</u>	<u>3 year olds up to school age eligible</u>	<u>1:10</u>
<u>5.</u>	<u>School age eligible up to 9 years</u>	<u>1:18</u>
<u>6.</u>	<u>9 years through 12 years</u>	<u>1:20</u>

C. When children are regularly in ongoing mixed age groups, the staff-to-children ratio and group size applicable to the youngest child in the group shall apply to the entire group.

D. ~~During the designated rest period and the designated sleep period of evening and overnight care programs, the ratio of staff to children may be double the number of children to each staff required by subdivisions E 2 through 4 and 7 of this section if:~~

- ~~1. A staff person is within sight and sound of the resting/sleeping children;~~
- ~~2. Staff counted in the overall rest period ratio are within the building and available to ensure safe evacuation in an emergency; and~~
- ~~3. An additional person is present at the center to help, if necessary.~~

E. The following ratios of staff to children are required wherever children are in care:

- ~~1. For children from birth to the age of 16 months: one staff member for every four children;~~
- ~~2. For children 16 months old to two years: one staff member for every five children;~~
- ~~3. For two-year-old children: one staff member for every eight children effective June 1, 2006;~~
- ~~4. For children from three years to the age of eligibility to attend public school, five years by September 30: one staff member for every 10 children effective June 1, 2006;~~
- ~~5. For children from age of eligibility to attend public school through eight years, one staff member for every 18 children; and~~
- ~~6. For children from nine years through 12 years, one staff member for every 20 children effective June 1, 2006.~~
- ~~7. Notwithstanding subdivisions 4 and 5 of this subsection and subsection C of this section, the ratio for balanced mixed-age groupings of children shall be one staff member for every 14 children, provided:
 - ~~a. If the program leader has an extended absence, there shall be sufficient substitute staff to meet a ratio of one staff member for every 12 children.~~
 - ~~b. The center shall have readily accessible and in close classroom proximity auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for all three-year-olds who are included in balanced mixed-age groups to be available in the event of emergencies.~~
 - ~~c. The program leader has received training in classroom management of balanced mixed-age groupings of at least eight hours.~~~~

F. D. Group size limitations shall not apply during:

1. Designated rest periods as described in this section;

2. Outdoor activity as described in 22VAC40-185-370, 22VAC40-185-380, and 22VAC40-185-390;

3. Transportation and field trips as described in 22VAC40-185-580;

4. Meals and snacks served as described in 22VAC40-185-560; or

5. Special group activities, or during the first and last hour of operation when the center operates more than six hours per day.

E. Group size requirements in subsection A of this section do not apply to children school age eligible through 12 years of age.

F. The center shall develop and implement a written policy and procedure that describes how the center will ensure that each group of children receives care by consistent staff or team of staff members.

G. Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.

H. A child volunteer 13 years of age or older not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.

I. For children ages 16 months through preschool age, during the designated rest period, when children are resting or in an inactive state, the following rest period ratios are permitted if the requirements of subsections J through N of this section are met:

1. Children 16 through 24 months of age: one staff per 10 children.

2. Children two years of age: one staff per 16 children.

3. Children of preschool age: one staff per 20 children.

J. Staff required by rest period ratios shall be within sight and sound at all times in the same space as the resting or sleeping children.

K. In addition to the staff required by rest period ratios, an additional staff member shall always be available on-site to offer immediate assistance. The staff required by rest period ratios shall be able to summon the additional staff member without leaving the room or area of the sleeping or resting children.

L. Once at least half of the children in the resting room or area are awake and off their mats or cots, the staff-to-children ratio shall meet the ratios as required in subsection B of this section.

M. One staff member shall not supervise more than one room or area during rest time.

N. Centers providing evening and overnight care shall meet the requirements of [~~subsections I through this subsection of this section 22VAC40-185-350 I through 22VAC40-185-350 N~~] during sleep periods.

O. The ratio for balanced-mixed-age groupings of children shall be one staff member for every 14 children provided:

1. The center has additional staff who are readily accessible in the event of an emergency to maintain a ratio of one staff member for every 10 children when three-year-olds are included in the balanced-mixed-age group; and

2. The lead teacher has received at least eight hours of training in classroom management of balanced-mixed-age groupings.

P. A maximum group size of 28 shall be followed whenever children in care are in balanced-mixed-age groupings.

Q. With a parent's written permission and a written assessment by the program director and program leader, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level and the staff-to-children ratio and group size shall be for the established age group.

1. If such developmental placement is made for a child with a special need, a written assessment by a recognized agency or professional shall be required at least annually. These assignments are intended to be a permanent new group and staff members for the child.

2. A center may temporarily reassign a child from his regular group and staff members for reasons of administrative necessity but not casually or repeatedly disrupt a child's schedule and attachment to his staff members and group.

~~G. For therapeutic child day programs, in each grouping of children of preschool age or younger, the following ratios of staff to children are required according to the special needs of the children in care:~~

~~1. For children with severe and profound disabilities, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to three children.~~

~~2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities, or with autism: one staff member to four children.~~

~~3. For children diagnosed as educable mentally retarded (EMR) or developmentally delayed or diagnosed with attention deficit/hyperactivity disorder (AD/HD): one staff member to five children.~~

~~4. For children diagnosed with specific learning disabilities: one staff member to six children.~~

~~5. When children with varied special needs are regularly in ongoing groups, the staff to children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.~~

~~6. Note: Whenever 22VAC40-185-350 E requires more staff than 22VAC40-185-350 G because of the children's ages, 22VAC40-185-350 E shall take precedence over 22VAC40-185-350 G.~~

~~H. For therapeutic child day programs, in each grouping of school age children, the following ratios of staff to children are required according to the special needs of the children in care:~~

~~1. For children with severe and profound disabilities, autism, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to four children.~~

~~2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities; attention deficit/hyperactivity disorder (AD/HD), or other health impairments: one staff member to five children.~~

~~3. For children diagnosed as educable mentally retarded (EMR), or developmentally delayed: one staff member to six children.~~

~~4. For children diagnosed with specific learning disabilities, or speech or language impairments: one staff member to eight children.~~

~~5. When children with varied special needs are regularly in ongoing groups, the staff to children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.~~

22VAC40-185-355. Staff-to-children ratio requirements for therapeutic and special needs program staff.

A. For therapeutic child day programs, in each grouping of children of preschool age or younger, the following ratios of staff to children are required according to the special needs of the children in care:

1. For children with severe and profound disabilities, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to three children.
2. For children diagnosed as having an intellectual disability with significant sub-average intellectual functioning and deficits in adaptive behavior, or with physical and sensory disabilities, or with autism: one staff member to four children.
3. For children diagnosed as having an intellectual disability in the mild range of development, children with a developmental delay, or children diagnosed with attention deficit/hyperactivity disorder ([~~AD/HD~~ ADHD]): one staff member to five children.
4. For children diagnosed with specific learning disabilities: one staff member to six children.
5. When children with varied special needs are included in a group, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.
6. Whenever 22VAC40-185-350 B requires more staff than 22VAC40-185-355 A because of the children's ages, 22VAC40-185-350 B shall take precedence over 22VAC40-185-355 A.

B. For therapeutic child day programs, in each grouping of school age children, the following ratios of staff to children are required according to the special needs of the children in care:

1. For children with severe and profound disabilities, autism, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to four children.

2. For children diagnosed as having an intellectual disability with significant sub-average intellectual functioning and deficits in adaptive behavior, or with physical and sensory disabilities, [~~AD/HD~~ ADHD] , or other health impairments: one staff member to five children.

3. For children diagnosed as having an intellectual disability in the mild range of development, or developmentally delayed: one staff member to six children.

4. For children diagnosed with specific learning disabilities or speech or language impairments: one staff member to eight children.

5. When children with varied special needs are included in a group, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.

C. Group size requirements in 22VAC40-185-350 A do not apply to therapeutic child day programs.

[22VAC40-185-400. Behavioral guidance.

A. In order to promote the child's physical, intellectual, emotional, and social well-being and growth, staff shall interact with the child and one another to provide needed help, comfort, support and:

1. Respect personal privacy;
2. Respect differences in cultural, ethnic, and family backgrounds;
3. Encourage decision-making abilities;

4. Promote ways of getting along;
5. Encourage independence and self-direction; and
6. Use consistency in applying expectations.

B. Behavioral guidance shall be constructive in nature, age and stage appropriate, and shall be intended to redirect children to appropriate behavior and resolve conflicts.

C. When time out is used as a behavior guidance technique:

1. It shall be used sparingly and shall not exceed one minute for each year of the child's age;
2. It shall be appropriate to the child's developmental level and individual needs;
3. It shall not be used with infants or toddlers;
4. The child shall be in a safe, lighted, well-ventilated place, and within actual sight and sound of a staff member; and
5. The child shall not be left alone inside or outside the center.]

22VAC40-185-420. Parental involvement.

A. Before the child's first day of attending, parents shall be provided in writing the following:

1. The center's philosophy and any religious affiliation;
2. Operating information, including the hours and days of operation and holidays or other times closed, and the phone number where a message can be given to staff;
3. The center's transportation policy;
4. The center's policies for the arrival and departure of children, including procedures for verifying that only persons authorized by the parent are allowed to pick up the child, picking up children after closing, [and] when a child is not picked up for emergency

situations including ~~but not limited to~~ inclement weather or natural or man-made disasters;

5. The center's policy regarding any medication or medical procedures that will be given;

6. The center's policy regarding application of:

a. Sunscreen;

b. Diaper ointment or cream; and

c. Insect repellent.

7. Description of established lines of authority for staff;

8. Policy for reporting suspected child abuse as required by § 63.2-1509 of the Code of Virginia;

9. The custodial parent's right to be admitted to the center as required by § 63.2-1813 of the Code of Virginia;

10. Policy for communicating an emergency situation with parents;

11. The appropriate general daily schedule for the age of the enrolling child;

12. Food policies;

13. Discipline policies including acceptable and unacceptable discipline measures; and

14. Termination policies.

B. Staff shall promptly inform parents when persistent behavioral problems are identified; such notification shall include any disciplinary steps taken in response.

C. A custodial parent shall be admitted to any child day program. Such right of admission shall apply only while the child is in the child day program (§ 63.2-1813 of the Code of Virginia).

D. The center shall provide opportunities for parental involvement in center activities.

E. Communication.

1. For each infant, the center shall post a daily record, which can be easily accessed by both the parent and the staff working with the child. The record shall contain the following information:

- a. The amount of time the infant slept;
- b. The amount of food consumed and the time;
- c. A description and time of bowel movements;
- d. Developmental milestones; and
- e. For infants, who are awake and cannot turn over by themselves, the amount of time spent on their stomachs.

2. If asked by parents, staff shall provide feedback about daily activities, physical well-being, and developmental milestones.

3. Parents shall be provided at least semiannually in writing information on their child's development, behavior, adjustment, and needs.

- a. Staff shall provide at least semiannual scheduled opportunities for parents to provide feedback on their children and the center's program.

- b. Staff shall request at least annually parent confirmation that the required information in the child's record is up to date.

- c. Such sharing of information shall be documented.

- d. Short-term programs (as defined in 22VAC40-185-10) are exempt from this requirement.

4. Parents shall be informed of reasons for termination of services.

22VAC40-185-460. Swimming and wading activities; staff and supervision.

A. The staff-to-children ratios required by 22VAC40-185-350 ~~E, G, and H~~ B and 22VAC40-185-355 A and B shall be maintained while children are participating in swimming or wading activities.

1. Notwithstanding the staff-to-children ratios already indicated, at no time shall there be fewer than two staff members supervising the activity.

2. The designated certified lifeguard shall not be counted in the staff-to-children ratios.

B. If a pool, lake, or other swimming area has a water depth of more than two feet, a certified lifeguard holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water.

C. The lifeguard certification shall be obtained from an organization such as, ~~but not limited to,~~ the American Red Cross, the YMCA, or the Boy Scouts.

22VAC40-185-500. Hand washing and toileting procedures.

A. Hand washing.

1. Children's hands shall be washed with soap and running water or disposable wipes before and after eating meals or snacks.

2. Children's hands shall be washed with soap and running water after toileting and any contact with blood, feces, or urine.

3. Staff shall wash their hands with soap and running water ~~before and after helping a child use the toilet or a diaper change, after the staff member uses the toilet, after any contact with body fluids, and before feeding or helping children with feeding;~~

a. Before and after helping a child use the toilet;

- b. Before and after a diaper change;
- c. After the staff member uses the toilet;
- d. After any contact with body fluids;
- e. Before feeding or helping children with feeding; and
- f. Before preparing or serving food or beverages.

4. Exception: If running water is not available, a germicidal cleansing agent administered per manufacturer's instruction may be used.

B. Diapering; soiled clothing.

1. The diapering area shall be accessible and within the building used by children.
2. There shall be sight and sound supervision for all children when a child is being diapered.
3. The diapering area shall [~~be provided with~~ have] the following:
 - a. A sink with running warm water not to exceed 120°F;
 - b. Soap, disposable towels, and single use gloves such as surgical or examination gloves;
 - c. A nonabsorbent surface for diapering or changing shall be used. For children younger than three years, this surface shall be a changing table or countertop designated for changing;
 - d. The appropriate disposal container as required by subdivision 5 6 of this subsection; and
 - e. A leakproof covered receptacle for soiled linens.

4. When a child's clothing or diaper becomes wet or soiled, the child shall be cleaned and changed immediately.

5. [~~Disposable diapers shall be used unless the child's skin reacts adversely to disposable diapers~~].

6.] Disposable diapers shall be disposed in a leakproof or plastic-lined storage system that is either foot-operated or used in such a way that neither the staff member's hand nor the soiled diaper touches an exterior surface of the storage system during disposal.

[~~7. 6.~~] When cloth diapers are used, a separate leakproof storage system as specified in [~~this subdivision 5 of this subsection~~ shall be used for each individual child] .

[~~8. 7.~~] The diapering surface shall be used only for diapering or cleaning children, and it shall be cleaned with soap and at least room temperature water and sanitized after each use. Tables used for children's activities or meals shall not be used for changing diapers.

~~Exception:~~ [~~9. 8.~~] Individual disposable barriers may be used between each diaper change. If the changing surface becomes soiled, the surface shall be cleaned and sanitized before another child is diapered.

9. [~~10. 9.~~] Staff shall ensure the immediate safety of a child during diapering.

C. Toilet training. For every 10 children in the process of being toilet trained, there shall be at least one toilet chair or one child-sized toilet, or at least one adult sized toilet with a platform or steps and adapter seat.

1. The location of these items shall allow for sight and sound supervision of children in the classroom if necessary for the required staff-to-children ratios to be maintained.

2. Toilet chairs shall be emptied promptly and cleaned and sanitized after each use.

22VAC40-185-510. Medication.

[A. The decision to administer medicines at a facility may be limited by center policy to administer:

1. Prescribed medications;
2. Over-the-counter or nonprescription medications; or
3. No medications except those required for emergencies or by law.]

[~~A.~~ B.] Prescription and nonprescription medication shall be given to a child:

1. According to the center's written medication policies; and
2. Only with written authorization from the parent.

[~~B.~~ ~~C.~~] Medication shall be administered by a staff member who is 18 years of age or older.

[~~C.~~ D.] Nonprescription medication shall be administered by a staff member or independent contractor who meets the requirements in ~~22VAC40-185-240 D 1 or 3~~ [22VAC40-185-245 F 1 or F 3 22VAC40-185-245 J1 or J2] .

~~C.~~ [~~D.~~ E.] The center's procedures for administering medication shall:

1. Include any general restrictions of the center.
2. For nonprescription medication, be consistent with the manufacturer's instructions for age, duration, and dosage.
3. Include duration of the parent's authorization for medication, provided that it shall expire or be renewed after 10 work days. Long-term prescription drug use and over-the-counter medication may be allowed with written authorization from the child's physician and parent.

4. Include methods to prevent use of outdated medication.

~~D.~~ [~~E.~~ F.] The medication authorization shall be available to staff during the entire time it is effective.

~~E.~~ [~~F.~~ G.] Medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time or times to be given.

~~F.~~ [~~G.~~ H.] Nonprescription medication shall be in the original container with the direction label attached.

~~G.~~ [~~H.~~ I.] The center may administer prescription medication that would normally be administered by a parent or guardian to a child provided:

1. The medication is administered by a staff member or an independent contractor who meets the requirements in ~~22VAC40-185-240 D 1~~ [~~22VAC40-185-245 F~~ 22VAC40-185-240 J] ;

2. The center has obtained written authorization from a parent or guardian;

3. The center administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container; and

4. The center administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration.

~~H.~~ [~~I.~~ J.] When needed, medication shall be refrigerated.

~~I.~~ [~~J.~~ K.] When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

~~J.~~ [~~K.~~ L.] Medication, except for those prescriptions designated otherwise by written physician's order, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children.

~~K.~~ [~~L.~~ M.] If a key is used, the key shall not be accessible to the children.

~~L.~~ [~~M.~~ N.] Centers shall keep a record of medication given children, which shall include the following:

1. Child to whom medication was administered;
2. Amount and type of medication administered to the child;
3. The day and time the medication was administered to the child;
4. Staff member administering the medication;
5. Any adverse reactions; and
6. Any medication error.

~~M.~~ [~~N.~~ O.] Staff shall inform parents immediately of any adverse reactions to medication administered and any medication error.

~~N.~~ [~~O.~~ P.] When an authorization for medication expires, the parent shall be notified that the medication needs to be picked up within 14 days or the parent must renew the authorization. Medications that are not picked up by the parent within 14 days will be disposed of by the center by either dissolving the medication down the sink or flushing it down the toilet.

22VAC40-185-530. First aid training, cardiopulmonary resuscitation (CPR) [~~and rescue breathing~~].

~~A.~~ There shall be at least one staff member trained in first aid, cardiopulmonary resuscitation, and rescue breathing as appropriate to the age of the children in care who is on

~~the premises during the center's hours of operation and also one person on field trips and wherever children are in care.~~

~~1. This person shall be available to children; and~~

~~2. This person shall have current certification by the American Red Cross, American Heart Association, National Safety Council, or other designated program approved by the Department of Social Services.~~

~~B. A. [All staff who work directly with children shall have, within 30 days of the date of employment At least one staff in each classroom or area where children are present shall have, within 90 days of (insert the effective date of this chapter)]:~~

~~1. Current certification in cardiopulmonary resuscitation (CPR) as appropriate to the age of the children in care from an organization such as the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council. The training shall include an in-person competency demonstration; and~~

~~2. Current certification in first aid from an organization such as the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council.~~

~~B. [Staff who work directly with children and who are employed prior to (insert the effective date of this chapter) must complete CPR and first aid training as required by this section within 90 calendar days of (insert the effective date of this chapter). During the 90-day period, there must always be at least one staff with current CPR and first aid training present during operating hours of the center.]~~

~~[C.] CPR and first aid [certification] training may count toward the annual training hours required in [22VAC40-185-245-A section 22VAC40-185-245] .~~

[C. There shall be at least two staff members who meet the requirements of subsection A of this section present on the premises during the center's hours of operation, on fieldtrips, and wherever children are in care.]

D. Primitive camps shall have a staff member on the premises during the hours of operation who has at least current certification in first responder training.

[E. Staff who is a registered nurse or licensed practical nurse with a current license from the Board of Nursing shall not be required to obtain first aid certification.]

22VAC40-185-550. Procedures for emergencies.

A. The center shall have an a written emergency preparedness plan that addresses staff responsibility and facility readiness with respect to emergency evacuation and relocation, shelter-in-place, and lockdown. The plan, which shall be developed in consultation with local or state authorities, ~~addresses~~ shall include the most likely to occur emergency scenario or scenarios, including ~~but not limited to~~ fire, severe storms, loss of utilities, natural disaster, chemical spills, intruder, ~~and~~ violence at or near the center, terrorism specific to the locality, and other situations, including facility damage that requires evacuation, lockdown, or shelter-in-place.

B. The emergency preparedness plan shall contain procedural components for:

1. Sounding of alarms (~~intruder, shelter-in-place such as for tornado, or chemical hazard~~), such as intruder, evacuation, lockdown, and shelter-in-place for tornado or chemical hazards;

2. Emergency communication to include:

a. Establishment of center emergency officer and back-up officer to include 24-hour contact telephone number for each;

b. Notification of local authorities (~~fire and rescue, law enforcement, emergency medical services, poison control, health department, etc.~~), such as fire and rescue, law enforcement, emergency medical services, poison control, health department, and parents; and local media; and

c. Availability and primary use of communication tools;

3. Evacuation to include:

a. Assembly points, ~~head counts~~ methods to account for all children at the assembly point and relocation site, primary and secondary means of egress, and complete evacuation of the buildings;

b. Securing of essential documents (~~sign-in record, parent contact information, etc.~~) and ~~special healthcare supplies to be carried off-site on immediate notice; and, including attendance records, parent contact information, emergency contact information, [and] information on allergies [,intolerance to food or medication , any special health care needs to include medications and care plans, emergency contact information for staff, and supplies are taken to the assembly point or relocation site; or food intolerances]~~ ;

[c. Methods to ensure any health care needs to include medications and care plans; emergency contact information for staff; and supplies are taken to the assembly point or relocation site;

~~e. d.]~~ Method of communication after the evacuation with parents and emergency responders;

[~~d. e.]~~ Accommodations or special requirements for infants, toddlers, and children with special needs to ensure their safety during evacuation or relocation; and

[e. f.] Procedures to reunite children with a parent or authorized person designated by the parent to pick up the child;

4. Shelter-in-place to include:

a. Scenario applicability, such as tornado or chemical spill, inside assembly points, ~~head counts~~ methods to account for all children at the safe locations, and primary and secondary means of access and egress;

b. Securing [of] essential documents (~~sign-in records, parent contact information, etc.~~) and ~~special health supplies to be carried into the designated assembly points; and,~~ including attendance records, parent contact information, emergency contact information, [and] information on allergies [,intolerance to food or medication , any special health care needs to include medications and care plans, emergency contact information for staff, and supplies are taken to the assembly point or relocation site; or food intolerances] ;

[c. Methods to ensure any healthcare needs to include medications and care plans; emergency contact information for staff; and supplies are taken to the assembly point or relocation site;]

[e. d.] Method of communication after the shelter-in-place with parents and emergency responders;

[d. e.] Accommodations or special requirements for infants, toddlers, and children with special needs to ensure their safety during shelter-in-place; and

[e. f.] Procedures to reunite children with a parent or authorized person designated by the parent to pick up the child;

5. ~~Facility containment procedures, (e.g., closing of fire doors or other barriers) and shelter-in-place scenario (e.g., intruders, tornado, or chemical spills);~~ Lockdown, to include:

a. Facility containment procedures, such as closing of fire doors or other barriers, scenario applicability, assembly points, and methods to account for all children at the safe locations;

b. Method of communication with parents and emergency responders;

c. Accommodations or special requirements for infants, toddlers, and children with special needs to ensure their safety during lockdown; and

d. Procedures to reunite children with a parent or authorized person designated by the parent to pick up the child;

[6. Continuity of operations to ensure that essential functions are maintained during an emergency;]

[~~6. 7.~~] Staff training requirement, drill frequency, and plan review and update; and

[~~7. 8.~~] Other special procedures developed with local authorities.

C. Emergency evacuation and shelter-in-place ~~procedures/maps~~ procedures [~~and-or~~] maps shall be posted in a location conspicuous to staff and children on each floor of each building.

D. The center shall implement a monthly practice evacuation drill ~~and a minimum of two shelter-in-place practice drills per year for the most likely to occur scenarios.~~

E. Shelter in place procedures shall be practiced a minimum of twice per year.

F. Lockdown procedures shall be practiced at least annually.

G. Documentation shall be maintained of emergency evacuation, shelter-in-place, and lockdown drills that includes:

1. Identity of the person conducting the drill;
2. The date and time of the drill;
3. The method used for notification of the drill;
4. The number of staff participating;
5. The number of children participating;
6. Any special conditions simulated;
7. The time it took to complete the drill;
8. Problems encountered, if any; and
9. For emergency evacuation drills only, weather conditions.

~~E.~~ H. The center shall maintain a record of the dates of the practice drills for one year. For centers offering multiple shifts, the simulated drills shall be divided evenly among the various shifts.

~~F.~~ I. A 911 or local dial number for police, fire and emergency medical services and the number of the regional poison control center shall be posted in a visible place at each telephone.

~~G.~~ J. Each camp location shall have an emergency preparedness plan and warning system.

~~H.~~ K. The center shall prepare a document containing local emergency contact information, potential shelters, hospitals, evacuation routes, etc., that pertain to each site frequently visited or of routes frequently driven by center staff for center business (~~such, such~~ as field trips, pick-up/drop [or] pick up or drop off of children to or from schools, etc.) etc. This document must be kept in vehicles that centers use to transport children to and from the center.

~~I.~~ L. Parents shall be informed of the center's emergency preparedness plan.

⌋. M. Based on local authorities and documented normal ambulance operation, if an ambulance service is not readily accessible within 10 to 15 minutes, other transportation shall be available for use in case of emergency.

⌋. N. The center or other appropriate official shall notify the parent immediately if a child is lost, requires emergency medical treatment, or sustains a serious injury.

⌋. O. The center shall notify the parent by the end of the day of any known minor injuries.

M. P. The center shall maintain a written record of children's serious and minor injuries in which entries are made the day of occurrence. The record shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type and circumstance of the injury;
4. Staff present and treatment;
5. Date and time when parents were notified;
6. Any future action to prevent recurrence of the injury;
7. Staff and parent signatures or two staff signatures; and
8. Documentation on how parent was notified.

Q. A parent shall be notified immediately of any confirmed or suspected allergic reaction and the ingestion of [or contact with any food in the written care plan required in 22VAC40-185-60 A 8 prohibited food] even if a reaction did not occur.

Part VIII

Special Services

22VAC40-185-560. Nutrition and food services.

A. Centers shall schedule appropriate times for snacks or meals, or both, based on the hours of operation and time of the day (e.g., a center open only for after school care shall schedule an afternoon snack; a center open from 7 a.m. to 1 p.m. shall schedule a morning snack and midday meal).

B. The center shall ensure that children arriving from a half-day, morning program who have not yet eaten lunch receive a lunch.

C. The center shall schedule snacks or meals so that there is a period of at least 1-1/2 hours but no more than three hours between each meal or snack unless there is a scheduled rest or sleep period for children between the meals and snacks.

D. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.

E. In environments of 80°F or above, attention shall be given to the fluid needs of children at regular intervals. Children in such environments shall be encouraged to drink fluids as outlined in subsection D of this section.

F. When centers choose to provide meals or snacks, the following shall apply:

1. Centers shall follow the most recent, age-appropriate nutritional requirements of [a ~~recognized authority such as~~] the Child and Adult Care Food Program of the United States Department of Agriculture (USDA).

2. Children shall be allowed second helpings of food listed in the USDA's child and adult care meal patterns.

3. Centers offering both meals and snacks shall serve a variety of nutritious foods and shall serve at least three sources of vitamin A and at least three sources of vitamin C on various days each week.

4. Children three years of age or younger may not be offered foods that are considered to be potential choking hazards.

5. A menu listing foods to be served for meals and snacks during the current one-week period shall:

- a. Be dated;
- b. Be posted in a location conspicuous to parents or given to parents;
- c. List any substituted food; and
- d. Be kept on file for one week at the center.

6. Powdered milk shall not be used except for cooking.

G. When food is brought from home, the following shall apply:

1. The food container shall be sealed and clearly dated and labeled in a way that identifies the owner;
2. The center shall have extra food or shall have provisions to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and
3. Unused portions of opened food shall be discarded by the end of the day or returned to the parent.

H. If a catering service is used, it shall be approved by the local health department.

~~I. Food shall be prepared, stored, and transported in a clean and sanitary manner.~~

~~J.~~ I. Contaminated or spoiled food shall not be served to children.

~~K.~~ J. Tables and high chair trays shall be:

1. Sanitized before and after each use for feeding; and
2. Cleaned at least daily.

~~L.~~ K. Children shall be encouraged to feed themselves.

~~M.~~ L. Staff shall sit with children during meal times.

~~N.~~ M. No child shall be allowed to drink or eat while walking around.

N. Food shall be prepared, stored, and transported in a clean and sanitary manner.

O. When food is prepared to which a child in care is allergic, staff shall take steps to avoid cross contamination to prevent an allergic reaction.

P. A child with a diagnosed food allergy shall not be served any food identified in the written care plan required in 22VAC40-185-60 A 8.

22VAC40-185-580. Transportation and field trips.

A. If the center provides transportation, the center shall be responsible from the time the child boards the vehicle until returned to the parents or person designated by the parent.

B. Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be manufactured for the purpose of transporting people seated in an enclosed area;
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be insured with at least the minimum limits established by Virginia state statutes;

4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children; and

5. If volunteers supply personal vehicles, the center is responsible for ensuring that the requirements of this subsection are met.

C. The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed as required by §§ 46.2-1095 through 46.2-1100, and stated maximum number of passengers in a given vehicle ~~shall not be~~ is not exceeded;

2. The children remain seated and each child's arms, legs, and head remain inside the vehicle;

3. Doors are closed properly and locked unless locks were not installed by the manufacturer of the vehicle;

4. At least one staff member or the driver always remains in the vehicle when children are present;

5. The following information is in transportation vehicles:

a. Emergency numbers as specified in 22VAC40-185-550 ~~F and H~~ I and K;

b. The center's name, address, and phone number; ~~and~~

c. A list of the names of the children being transported; and

d. Allergy care plan and information as specified in 22VAC40-185-60 A 7 and A 8;
and

6. Staff who transport children shall be 18 years of age or older.

D. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

E. Children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.

F. The staff-to-children ratios of 22VAC40-185-350 ~~E, G, and H~~ B and 22VAC40-185-355 shall be followed on all field trips. The staff-to-children ratios need not be followed during transportation of school age children to and from the center. One staff member or adult is necessary in addition to the driver when 16 or more preschool or younger children are being transported in the vehicle.

G. The center shall make provisions for providing children on field trips with adequate food and water.

H. If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

I. Before leaving on a field trip, a schedule of the trip's events and locations shall be posted and visible at the center site.

J. There shall be a communication plan between center staff and staff who are transporting children or on a field trip.

K. Staff shall verify that all children have been removed from the vehicle at the conclusion of any trip.

L. Parental permission for transportation and field trips shall be secured before the scheduled activity.

M. If a blanket permission is used instead of a separate written permission, the following shall apply:

1. Parents shall be notified of the field trip; and
2. Parents shall be given the opportunity to withdraw their children from the field trip.