



COMMONWEALTH of VIRGINIA

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TO: Margaret Schultze, Commissioner
Virginia Department of Social Services

FROM: Eric J. Reynolds *EJR*
Assistant Attorney General

DATE: September 12, 2017

SUBJECT: Final Regulation Review - 22 VAC40-111 (Standards for Licensed Family Day Homes)

I have reviewed the above-referenced regulation to determine if the Department of Social Services (the "Department") has the statutory authority to promulgate the specified amendments and whether the amendments comport with applicable state and federal law.

This final regulation amends current provisions governing the standards for licensure of family day homes that provide child care. The amendments are necessary to comply with new health and safety requirements under the Child Care and Development Block Grant Act of 2014 (CCDBG) for child care providers that receive CCDBG funds in order to serve low income families.

It is my opinion that the Department has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act, and has not exceeded that authority.

If you have any questions or need additional information about these regulations, please contact me at (804) 786-3450.

cc: Kim F. Piner, Esquire
Attachment

Project 4604 - Final

DEPARTMENT OF SOCIAL SERVICES

Amend Standards for Licensed Family Day Homes to Address Federal Health and Safety Requirements

22VAC40-111-10. Definitions.

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

"Accessible" means capable of being entered, reached, or used.

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

"Age-appropriate" means suitable to the chronological age and individual needs of a child.

"Assistant" means an individual who helps the provider or substitute provider in the care, protection, supervision, and guidance to children in the home.

"Body fluids" means urine, feces, vomit, blood, saliva, nasal discharge, and tissue discharge.

"Caregiver" means an individual who provides care, protection, supervision, and guidance to children in the home and includes the provider, substitute provider, and assistant.

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

"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.

"Child with special needs" means a child with developmental disabilities, intellectual disabilities, emotional disturbance, sensory or motor impairment, or significant chronic illness who requires special health surveillance or specialized programs, interventions, technologies, or facilities.

"Cleaned" means treated in such a way as to remove dirt and debris by scrubbing and washing with soap and water or detergent solution and rinsing with water.

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

"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.

"Evacuation" means movement of occupants out of the building to a safe area near the building.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. A family day home serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. A family day home caring for more than four children under the age of two years, including the provider's own children and any children who reside in the home, shall be licensed or voluntarily registered. A family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Good character and reputation" means knowledgeable and objective people agree that the individual (i) maintains business, professional, family, and community relationships that 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.

"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 [in accordance with §§ 22.1-223, 22.1-224, and 22.1-225 of the Code of Virginia]~~, 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 setting;

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 motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;

4. Living in congregate, temporary, emergency, or transitional shelters;

[5. Abandoned in a hospital;]

[5. 6.] Awaiting or in foster care placement;

[6. 7. A migratory child who qualifies as homeless because he is living in circumstances described in the federal Elementary and Secondary Education Act of 1965, P.L. 89-10

~~(20 USC § 6399); and~~ 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; and or

~~7. 8. 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.~~

A migratory child as defined in the federal Elementary and Secondary Education Act of 1965, P.L. 89-10 (20 USC § 6399) who qualifies as homeless because he is living in circumstances described in subdivisions 1 – 7 herein.]

"Inaccessible" means not capable of being entered, reached, or used.

"Infant" means a child from birth up to 16 months of age.

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

"Nighttime care" means care provided between 7 p.m. and 6 a.m.

"Parent" means the biological, foster or adoptive parent, legal guardian, or any individual with responsibility for, or custody of a child enrolled in or in the process of being enrolled in a family day home.

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

"Preschool" means children from two years up to the age of eligibility to attend public school, age five by September 30 of that same year.

"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.

"Provider" means an individual who is issued the family day home license by the Department of Social Services and who has primary responsibility in providing care, protection, supervision, and guidance of children in the family home.

"Relocation" means movement of occupants of the building to a safe location away from the vicinity of the building.

"Residence" means principal legal dwelling or abode that is occupied for living purposes by the provider and contains the facilities necessary for sleeping, eating, cooking, and family living.

"Sanitized" means treated in such a way as to remove bacteria and viruses from inanimate surfaces through first cleaning and secondly using a solution of one tablespoon of bleach mixed with one gallon of water and prepared fresh daily or using a sanitizing solution approved by the U.S. Environmental Protection Agency. The surface of the item is sprayed or dipped into the sanitizing solution and then allowed to air dry for a minimum of two minutes or according to the sanitizing solution instructions.

"School age" means eligible to attend public school, age five or older by September 30 of that same year.

"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; and 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 movement of occupants of the building to designated protected spaces within the building.

"Substitute provider" means an individual who meets the qualifications of a provider; is designated by the provider; and who provides care, protection, supervision, and guidance for children in the family day home when the provider is absent from the home for more than two hours.

"Time out" means a discipline technique in which a child is moved for a brief time away from the stimulation and reinforcement of ongoing activities and other children in the group to allow the child who is losing self-control to regain composure.

"Toddler" means a child from 16 months of age up to 24 months of age.

22VAC40-111-30. Operational responsibilities.

A. The provider shall ensure compliance with these standards and the terms of the current license issued by the department and with relevant federal, state or local laws, and other relevant regulations.

B. The provider will ensure compliance with the home's policies that have been disclosed to the parents as required by 22VAC-40-111-70.

C. The provider shall be of good character and reputation. Character and reputation investigation includes, ~~but is not limited to,~~ background checks as required by §§ 63.2-1702 and [~~63.2-1721~~ 63.2-1721.1] of the Code of Virginia.

D. The provider shall meet the requirements specified in 22VAC40-191, Background Checks for Child Welfare Agencies.

E. The provider shall ensure that the home's activities, services, and facilities are conducive to the welfare of children in care.

F. The provider shall be responsible for the home's day-to-day operation.

~~[G. The provider shall post with parental approval, a current list of all children's allergies, sensitivities, and dietary restrictions.]~~

[G. The provider shall inform all caregivers of children's allergies, sensitivities, and dietary restrictions.]

[H. The provider shall maintain in a way that is accessible to all caregivers, a current written list of all children's allergies, sensitivities and dietary restrictions. This list shall be dated and kept confidential.]

G. ~~[H. I.]~~ The provider shall ensure that any advertising is not misleading or deceptive as required by § 63.2-1713 of the Code of Virginia.

H. ~~[I. J.]~~ The provider shall meet the requirements specified in 22VAC40-80, General Procedures and Information for Licensure.

[22VAC40-111-40. Capacity.

A. The provider shall ensure that the total number of children receiving care at any one time does not exceed the maximum licensed capacity of the home.

B. When at least one child receives care for compensation, all children, exclusive of the provider's own children and children who reside in the home, who are in the care and supervision of a provider, count in the licensed capacity.

C. The department will establish the home's maximum capacity based on the following factors:

1. The availability of adequate space to allow each child free movement and active play indoors and outdoors as required by 22VAC40-111-380;
2. The provider's responsibility to care for another individual who may require special attention or care, including but not limited to an elderly resident or a child with a serious physical, emotional, or behavioral condition; or
3. The issuance of a special order to limit capacity pursuant to § 63.2-1709.2 of the Code of Virginia.

D. If the family day home is an approved subsidy vendor, when children 13 years or older are enrolled in the program and receive supervision in the family day home, they shall be counted in the capacity and the family day home shall comply with the standards for these children.]

22VAC40-111-50. General recordkeeping.

~~A. The family day home shall keep a written record of children in attendance each day.~~

~~B. The provider's records~~ A. Records required by this [regulation chapter] may be kept as hard copy or electronically and shall be maintained in the home and made accessible to the department's representative.

B. The family day home shall maintain a written record of daily attendance that documents the arrival and departure of each child in care as it occurs.

C. Information contained in a child's record shall be privileged and confidential. The provider shall not distribute or release information in a child's record to any unauthorized person without the written consent of the child's parent.

D. Children's records shall be made available to a child's parent upon request, unless otherwise ordered by the court.

E. Records and reports on children, caregivers, and household members required by this chapter shall be maintained and made accessible to the department's representative for two years from the date of termination of services for a child, date of separation from employment for caregivers, or date of termination of residence for a household member, or unless specified otherwise.

22VAC40-111-60. Children's records.

A. The provider shall maintain an up-to-date record at the family day home for each enrolled child.

B. A child's record shall contain the following information:

1. Child's full name, nickname (if any), sex, address, and birth date;

2. Emergency ~~contact~~ care information including:

a. Name, home address, and telephone number of each parent who has custody;

b. Name, address, and telephone number of each custodial parent's place of employment;

c. Name, office address, and telephone number of the child's physician;

d. Name, address, and telephone number of two designated persons to contact in case of an emergency if the parent cannot be reached;

e. Information on allergies and intolerance to ~~food~~, medication, or any other substances, and actions to take in an emergency situation;

f. 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;

g. Name and policy number of the child's medical insurance, if applicable;

- ~~g.~~ h. Names of persons other than the custodial parents who are authorized to pick up the child;
- ~~h.~~ i. Appropriate legal paperwork when a custodial parent does not authorize the provider to release the child to the other parent; and
- ~~i.~~ j. Chronic physical problems, pertinent developmental information, and any special accommodations needed;
3. First and last dates of attendance;
4. Parent's signed ~~acknowledgement~~ acknowledgment of the receipt of the information required by 22VAC40-111-70;
5. Proof of the child's age and identity and the names and addresses of previously attended child day care and schools as required by 22VAC40-111-80;
- ~~6. Immunization records for the child as required by 22VAC40-111-90;~~
- ~~7. Results of the health examination for the child as required by 22VAC40-111-100;~~
8. 6. Written authorization for emergency medical care should an emergency occur and the parent cannot be located immediately unless the parent presents a written objection to provision of medical treatment on religious or other grounds;
9. 7. Written authorization if a caregiver is to administer prescription or nonprescription medication to the child as required by 22VAC40-111-700 A 2;
- ~~10.~~ 8. Written authorization if the child is to participate in swimming or wading activities as required by 22VAC40-111-660 B;
- ~~11.~~ 9. Written authorization if the child is taken off the premises of the family day home as required by 22VAC40-111-980;

~~42.~~ 10. Special instructions to the provider including, ~~but not limited to,~~ exception to an infant's sleeping position as required in 22VAC40-111-590 A, recommendations for the care and activities of a child with special needs as required in 22VAC40-111-620 A, and exception to an infant's being fed on demand as required in 22VAC40-111-960 A;

~~43.~~ 11. Record of any accidents or injuries sustained by the child while at the family day home as required by 22VAC40-111-840; ~~and~~

~~44.~~ 12. Documentation of the review of the child's emergency contact information as required by 22VAC40-111-780 B;

13. Immunization records for the child as required by 22VAC40-111-90; and

14. Results of the health examination for the child as required by 22VAC40-111-100.

[22VAC40-111-70. Written information for parents.

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

1. Operating information including the hours and days of operation, holidays or other times closed, and the telephone number where a message can be left for a caregiver;
2. Schedule of fees and payment plans;
3. Check in and check out procedures;
4. Policies for the administration of medications;
5. Whether or not there is liability insurance of at least \$100,000 per occurrence and \$300,000 aggregate in force on the family day home operation as required by § 63.2-1809.1 of the Code of Virginia;
6. For homes built prior to 1978, parents shall be provided a disclosure indicating that there may be lead hazards.

~~6-7.~~ 7. Requirement for the family day home to notify the parent when the child becomes ill and for the parent to arrange to have the child picked up as soon as possible if so requested by the home;

~~7-8.~~ 8. Requirement for the parent to inform the family day home within 24 hours or the next business day after his child or any member of the immediate household has developed any reportable communicable disease, as defined by the State Board of Health, except for life-threatening diseases, which must be reported immediately;

~~8-9.~~ 9. Requirement for the child to be adequately immunized as required by 22VAC-40-111-90;

~~9-10.~~ 10. Requirement for paid caregivers to report suspected child abuse or neglect according to § 63.2-1509 of the Code of Virginia;

~~10-11.~~ 11. Custodial parent's right to be admitted to the family day home any time the child is in care as required by § 63.2-1813 of the Code of Virginia;

~~11-12.~~ 12. General daily schedule that is appropriate for the age of the enrolling child;

~~12-13.~~ 13. Policies for the provision of food;

~~13-14.~~ 14. Presence of a pet or animal in the home;

~~14-15.~~ 15. Discipline policies including acceptable and unacceptable discipline measures;

~~15-16.~~ 16. Amount of time per week that an adult assistant or substitute provider instead of the provider is scheduled to care for the child and the name of the adult assistant or substitute provider;

~~16-17.~~ 17. Provisions of the family day home's emergency preparedness and response plan;

~~17-18.~~ 18. Parental notifications required in 22VAC40-111-650;

~~18-19.~~ Policies for termination of care; and

~~19-20.~~ Address of the website of the department, with a note that a copy of this regulation and additional information about the family day home may be obtained from the website, including compliance history ~~that includes information after July 1, 2003.~~ for the past five years.

B. The provider shall obtain the parent's written acknowledgement of the receipt of the information in this section.]

22VAC40-111-90. Immunizations for children.

A. Before a child may attend the family day home, the provider shall obtain documentation that the child has been ~~adequately~~ immunized according to the requirements of § 32.1-46 A of the Code of Virginia and applicable State Board of Health regulations.

1. The provider may allow a child to attend contingent upon a conditional enrollment. Documentation related to the child's conditional enrollment shall be maintained in the child's record.

2. Conditional enrollment means the enrollment of a child for a period of 90 days contingent upon the child having received at least one dose of each of the required vaccines and the child possessing 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.

3. If a child is homeless and does not have documentation of the required immunizations, the provider 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. Enrollment of a homeless child without the required immunizations must be documented in the child's record.

B. 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 family day home 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.

C. The family day home shall obtain documentation of additional immunizations for a child who is not exempt from the immunization requirements according to subsection B of this section:

1. Once every six months for children under the age of two years; and
2. Once between each child's fourth and sixth birthdays.

22VAC40-111-100. Physical examinations for children.

A. The provider shall obtain documentation of a physical examination by or under the direction of a physician prior (i) to a child's attendance or (ii) within 30 days after the first day of attendance.

If a child is homeless and does not have documentation of a physical examination, the provider 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.

Enrollment of a homeless child without documentation of a physical examination must be documented in the child's record.

B. The physical examination prior to attendance shall have been conducted within:

1. Two months prior to attendance for children six months of age or younger;
2. Three months prior to attendance for children age seven months through 18 months;
3. Six months prior to attendance for children age 19 months through 24 months;
4. Twelve months prior to attendance for children two years of age through five years of age; or
5. Twenty-four months prior to attendance for children six years of age and ~~above~~ older.

EXCEPTIONS:

~~1. A new physical examination is not required if a copy of the physical examination is available to the admitting family day home for a child transferring from a facility licensed by the Virginia Department of Social Services, approved by a licensed family day system, voluntarily registered by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services, or transferring from a Virginia Department of Education-approved child care program.~~

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.

~~2. 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.

3. E. For a school age child, a copy of the physical examination required for his entry into a Virginia public kindergarten or elementary school is acceptable documentation to meet the requirements of this section.

22VAC40-111-130. General qualifications for caregivers.

A. Caregivers shall:

1. Be of good character and reputation;
2. Be physically and mentally capable of carrying out assigned responsibilities;
3. Be courteous, respectful, patient, and affectionate toward the children in care;
4. Be able to speak, read, and write in English as necessary to:
 - a. Carry out assigned job responsibilities, and
 - b. Communicate effectively with emergency responders; and
5. Meet the requirements specified in 22VAC40-191, Background Checks for Child Welfare Agencies.

B. Caregivers shall have 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.

C. Unless a caregiver is a registered nurse or licensed practical nurse with a current license from the Board of Nursing, the caregiver shall have 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.

22VAC40-111-140. Qualifications and requirements for providers and substitute providers.

A. Providers and substitute providers shall be 18 years of age or older.

B. Providers licensed after and substitute providers employed after June 30, 2010, shall have:

1. (i) A high school program completion or the equivalent or (ii) evidence of having met the requirements for admission to an accredited college or university; and

2. Three months of programmatic experience;

~~3. Current certification in cardiopulmonary resuscitation (CPR), as appropriate to the age of the children in care, from the American Red Cross, American Heart Association, American Safety and Health Institute, or the National Safety Council, or current CPR certification issued within the past two years by a community college, a hospital, a rescue squad, or a fire department; and~~

~~4. Current certification in first aid from the American Red Cross, American Heart Association, American Safety and Health Institute, or the National Safety Council, or current first aid certification issued within the past three years by a community college, a hospital, a rescue squad, or a fire department.~~

~~EXCEPTION: A provider or substitute provider 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.~~

C. Use of a substitute provider shall be limited to no more than a total of 240 hours per calendar year.

D. A substitute provider shall record and sign the time of arrivals and departures on each day that the substitute provider works.

22VAC40-111-150. Qualifications and requirements for assistants.

A. Assistants shall be 16 years of age or older.

B. An assistant under the age of 18 years of age shall always work under the direct supervision of the provider or substitute provider. Direct supervision means being able to hear or see the assistant and children at all times.

C. An assistant 18 years of age or older shall not be left alone with children in care for more than two hours per day.

~~D. An assistant 18 years of age or older who is left alone with children in care shall have:~~

~~1. Current certification in cardiopulmonary resuscitation (CPR), as appropriate to the age of the children in care, from the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council, or current CPR certification issued within the past two years by a community college, a hospital, a rescue squad, or a fire department; and~~

~~2. Current certification in first aid from the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council, or current first aid certification issued within the past three years by a community college, a hospital, a rescue squad, or a fire department.~~

~~EXCEPTION: An assistant 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.~~

E. D. An assistant 18 years of age or older who meets the requirements for a substitute provider may act as the substitute provider when the provider is absent from the home for more than two hours.

[22VAC40-111-170. Initial tuberculosis screening for caregivers and household members.

A. The provider shall obtain from each caregiver at the time of hire employment and each adult household member prior to coming into contact with children a current Report of Tuberculosis Screening form published by the Virginia Department of Health or a physician's form consistent with it documenting the absence of tuberculosis in a communicable form.

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

22VAC40-111-200. Orientation.

~~A. The provider shall orient the substitute provider and assistant by the end of their first week of assuming job responsibilities.~~

~~B. The orientation shall cover the following topics:~~

~~A. Caregivers shall complete a minimum of 16 hours of orientation training in areas relevant to their job responsibilities [and appropriate to the age of children for which the provider is licensed].~~

~~B. The Virginia Department of Social Services-sponsored orientation course shall be completed within 90 [business calendar] days of employment [and shall count towards orientation requirements in subsection A of this section].~~

~~C. Orientation shall include, but not be limited to, all topics within this section.~~

D. The provider shall orient the substitute provider and assistants on the following topics prior to working alone with children and within seven days of the date of [hire employment]:

1. Job responsibilities;
2. Requirements for parental notifications listed in 22VAC40-111-650;
3. Standards in this chapter that relate to the substitute provider's or assistant's responsibilities;
- ~~4. Emergency evacuation, relocation, and shelter-in-place procedures;~~
- ~~5. 4. Location of emergency numbers, first aid kit, and emergency supplies;~~
- ~~6. 5. Confidential treatment of information about children in care and their families; and~~
- ~~7. Requirement for reporting suspected child abuse and neglect.~~
6. 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;
7. The provider's policies and procedures on the administration of medication [if applicable];
8. Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a human-caused event such as violence at a family day home and the home's specific emergency preparedness plan as required by 22VAC40-111-800 through 22VAC40-111-830;
9. Prevention and control of infectious diseases;
10. Prevention of sudden infant death syndrome and use of safe sleep practices; [and]
11. Prevention of shaken baby syndrome and abusive head trauma including procedures to cope with crying babies or distraught children [;]

[12. Playground safety procedures;

13. Supervision of children, including check in and check out procedures;

14. Procedures for action in the case of lost or missing children, ill or injured children, medical and general emergencies;

15. Transportation; and

16. Caregivers who work with children that have food allergies shall receive training in preventing exposure to food(s) to which the child is allergic, preventing cross-contamination, recognizing and responding to allergic reactions.]

E. The provider shall orient the substitute provider and assistant by the end of the first 30

[calendar] days of assuming job responsibilities in the following topics:

1. Child development including, but not limited to: physical, cognitive, social, and emotional development; behavior management; and positive guidance techniques;

[2. 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.]

[3. 2.] 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 [;, and lead and mold issues;]

~~[4. 3.] Handling and storage of hazardous materials and the appropriate disposal of
diapers and other items contaminated by body fluids [; and.]~~

~~[5. Precautions in transporting children, if applicable.]~~

~~G. F.~~ Documentation of the orientation shall be signed and dated by the provider and substitute provider or by the provider and assistant.

G. Caregivers who are employed prior to (the effective date of this chapter) shall complete the Virginia Department of Social Services-sponsored orientation training as required in subsection B of this section within one year of (the effective date of this chapter). This training may count towards annual training requirements in section 22VAC40-111-210.

22VAC40-111-210. Annual Ongoing training.

~~A. In addition to satisfactory completion of first aid training and CPR training, caregivers shall obtain a minimum of eight clock hours of training annually in areas relevant to their job responsibilities.~~

~~1. Effective July 1, 2011, caregivers shall obtain 12 clock hours of training annually.~~

~~2. Effective July 1, 2012, caregivers shall obtain 14 clock hours of training annually.~~

~~3. Effective July 1, 2013, caregivers shall obtain 16 clock hours of training annually.~~

~~B. The annual training shall cover areas such as, but not limited to:~~

~~1. Physical, intellectual, social, and emotional child development;~~

~~2. Behavior management and discipline techniques;~~

~~3. Health and safety in the family day home environment;~~

~~4. Art and music activities for children;~~

~~5. Child nutrition;~~

~~6. Recognition and prevention of child abuse and neglect;~~

~~7. Emergency preparedness as required by 22 VAC 40-111-800 C; or~~

~~8. Recognition and prevention of the spread of communicable diseases.~~

A. Caregivers shall complete a minimum of 20 hours of training annually. [This training is in addition to completing orientation training requirements in 22VAC40-111-200-A-E.]

B. Annual training shall include topics relevant to the caregiver's job responsibilities, [and] the care of children [, and may include:

C. Training on the following health and safety topics shall be completed every two years:]

1. Child development including but not limited to: 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 home'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 [; and lead and mold issues;]

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 family day home and the home's specific emergency preparedness plan as required by 22VAC40-111-800 through 22VAC40-111-830. Training on the home's emergency preparedness plan shall be completed annually and each time the plan is updated;

11. Handling and storage of hazardous materials and the appropriate disposal of diapers and other items contaminated by body fluids;

12. Precautions in transporting children, if applicable; and

13. If applicable, the recommended care requirements related to the care and development of children with special needs.

[~~D.~~ C.] CPR and first aid training may count towards the annual training hours required in subsection A of this section if requirements in 22VAC-40-111-230 B are met.

[22VAC40-111-220. Medication administration training.

A. To safely perform medication administration practices listed in 22VAC40-111-710 whenever the family day home has agreed to administer prescription medications or nonprescription medications, the administration shall be performed by a caregiver who:

1. Has satisfactorily completed a training program for this purpose developed or 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; or

2. Is licensed by the Commonwealth of Virginia to administer medications.

B. Caregivers required to have the training in subdivision A 1 of this section shall be retrained at three-year intervals.]

22VAC40-111-230. Documentation of education and training.

A. The provider shall maintain written documentation of each caregiver's applicable education and programmatic experience, ~~applicable~~ first aid and CPR certification, orientation, annual training, and applicable medication administration training.

B. Written documentation of ~~annual~~ training shall include:

1. Name of the caregiver;

2. ~~Name of the training session~~ Training topic;

3. Evidence that [training in] each topic [of orientation training] required in [22VAC40-111-200 and training required in] 22VAC40-111-210 [G] has been completed;

4. Date and total hours of the session; and

4. 5. Name of the organization that sponsored the training and the trainer.

[22VAC40-111-280. Poisonous materials.

A. Potentially poisonous substances, materials and supplies such as, but not limited to, cleaning agents, disinfectants, deodorizers, plant care chemicals, pesticides, and petroleum distillates shall be stored away from food in areas inaccessible to children.

B. Hazardous substances not kept in original containers shall be kept in substitute containers clearly documenting the contents.]

[22VAC40-111-530. Linens.

A. Cribs, cots, rest mats, and beds when being used for sleeping or napping by children other than infants shall have linens consisting of a top cover and a bottom cover or a one-piece covering that is open on three edges.

B. Cribs when being used by infants shall have a tight-fitting bottom cover.

C. Linens shall be assigned for individual use.

D. Linens shall be clean and washed at least weekly or when soiled .

E. Clean linens shall be used each time a child rests on the bed of a family member.

F. Linens shall be appropriate to the temperature and other conditions of the rest area.

~~F. G.~~ No soft bedding of any kind shall be used under or around infants including, but not limited to, pillows, quilts, comforters, sheepskins, or stuffed toys.

~~G. H.~~ Children under two years of age shall not use pillows or filled comforters.

~~H. I.~~ Pillows, when used for children over two years of age, shall be assigned for individual use and covered with pillowcases.

~~I. J.~~ Mattresses, when used, shall be covered with a waterproof material that can be cleaned and sanitized.]

22VAC40-111-650. Parent notifications.

A. The provider shall provide written notification to the parent within 10 business days after the effective date of the change when there is no longer liability insurance in force on the family day home operation.

1. The provider shall obtain the parent's written [~~acknowledgement~~ acknowledgment] of the receipt of this notification, and

2. A copy of the parent's written [~~acknowledgement~~ acknowledgment] of the receipt of this notification shall be maintained in the child's record.

B. Caregivers shall provide information daily to parents about the child's health, development, behavior, adjustment, or needs.

C. The provider shall give parents prior notice when a substitute provider will be caring for the children.

D. Caregivers shall notify parents when persistent behavioral problems are identified and such notification shall include any disciplinary steps taken in response.

E. The provider shall notify the parent immediately when the child:

1. Has a head injury or any serious injury that requires emergency medical or dental treatment;

2. Has an adverse reaction to medication administered;

3. Has been administered medication incorrectly;

4. Is lost or missing; or

5. Has died.

F. The provider shall notify a parent the same day whenever first aid is administered to the child.

G. When a child has been exposed to a communicable disease listed in the Department of Health's current communicable disease chart, the provider shall notify the parent within 24 hours or the next business day of the home's having been informed, unless forbidden by law, except for life-threatening diseases, which must be reported to parents immediately. The

provider shall consult the local health department if there is a question about the communicability of a disease.

H. A parent shall be notified immediately of any confirmed or suspected allergic reaction and the ingestion of [~~prohibited any~~] food [identified in the written care plan required in 22VAC40-111-60.B.2.f] even if a reaction did not occur.

I. Parents shall be informed of any changes in the home's emergency preparedness and response plan.

J. Except in emergency evacuation or relocation situations, the provider shall inform the parent and have written permission as required by 22VAC40-111-980 whenever the child will be taken off the premises of the family day home, before such occasion.

K. If an emergency evacuation or relocation is necessary, the parent shall be informed of the child's whereabouts as soon as possible.

[22VAC40-111-700. General requirements for medication administration.

A. Prescription and nonprescription medications shall be given to a child:

1. According to the home's written medication policies; and
2. Only with written authorization from the parent.
3. Only by caregivers age 18 or older.

B. The parent's written authorization for medication shall expire or be renewed after 10 working days. Long-term prescription and nonprescription drug use may be allowed with written authorization from the child's physician and parent.

~~EXCEPTION: Long-term prescription and nonprescription drug use may be allowed with written authorization from the child's physician and parent.~~

C. 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 -~~ must be renewed. Medications that are not picked up by the parent within 14 days shall be taken to a pharmacy for proper disposal.]

[22VAC40-111-720. Nonprescription medication.

A. The family day home may administer nonprescription medication provided the medication is:

1. Administered by a caregiver ~~18 years of age or older~~ who meets the requirements in 22VAC40-111-220 A;
2. Labeled with the child's name;
3. In the original container with the manufacturer's direction label attached; and
4. Given only at the dose, duration, and method of administration specified on the manufacturer's label for the age or weight of the child needing the medication.

B. Nonprescription medication shall not be used beyond the expiration date of the product.]

22VAC40-111-760. First aid and emergency medical supplies.

A. The following emergency supplies shall be in the family day home, accessible to outdoor play areas, on field trips, in vehicles used for transportation, and wherever children are in care:

1. A first aid kit that contains at a minimum:
 - a. Scissors;
 - b. Tweezers;
 - c. Gauze pads;
 - d. Adhesive tape;

- e. Adhesive bandages, assorted sizes;
- f. Antiseptic cleaning solution or pads;
- g. Digital thermometer;
- h. Triangular bandages;
- i. Single use gloves such as surgical or examination gloves;
- ~~j. In homes located more than one hour's travel time from a healthcare facility, activated charcoal preparation (to be used only on the direction of a physician or the home's local poison control center); and~~
- ~~k.~~ l. First aid instructional manual.

2. An ice pack or cooling agent.

B. The first aid kit shall be readily accessible to caregivers and inaccessible to children.

[22VAC40-111-780. Emergency information.

A. The emergency contact information listed in 22VAC40-111-60 B 2 and the parent's written authorization for emergency medical care as required by ~~22VAC40-111-60 B 8~~ 22VAC40-111-60 B 6 shall be made available to a physician, hospital, or emergency responders in the event of a child's illness or injury.

B. Annually, the provider shall:

- 1. Review with the parent the emergency contact information required in 22VAC40-111-60 B 2 to ensure the information is correct, and
- 2. Obtain the parent's signed acknowledgment of the review.]

22VAC40-111-800. Emergency preparedness and response plan.

A. The family day home shall have a written emergency preparedness and response plan that:

1. Includes emergency evacuation, emergency relocation, ~~and shelter-in-place,~~ and lockdown procedures;
2. Addresses the most likely to occur scenarios, including ~~but not limited to~~ fire, severe storms, flooding, tornadoes, ~~and loss of utilities,~~ earthquakes, intruders, violence on or near the premises, chemical spills, and facility damage and other situations that may require evacuation, shelter-in-place, or lockdown; and
3. Includes provisions for a responsible person who is 18 years of age or older and is able to arrive at the family day home within 10 minutes for emergency backup care until the children can be picked up by their parents.

B. The provider shall review the emergency plan at least annually and update the plan as needed. The provider shall document in writing each review and update to the emergency plan.

C. The provider shall ensure that each caregiver receives training regarding the emergency evacuation, emergency relocation, ~~and shelter-in-place,~~ and lockdown procedures by the end of his first week of assuming job responsibilities, on an annual basis, and at the time of each plan update.

22VAC40-111-810. Evacuation and relocation procedures.

Evacuation procedures shall include:

1. Methods to alert caregivers and emergency responders;
2. Designated primary and secondary routes out of the building;
3. Designated assembly point away from the building;

4. Designated relocation site;
5. Methods to ensure all children are evacuated from the building and, if necessary, moved to a relocation site;
6. Methods to account for all children at the assembly point and relocation site;
7. Methods to ensure essential documents, including [attendance records, parent contact information,] emergency contact information, [information on allergies and intolerance to food or medications-medication], and supplies are taken to the assembly point and relocation site;
- [8. Methods to ensure any special healthcare needs to include medications and care plans; emergency contact information for staff; and supplies are taken to the assembly point or relocation site;]
- [8-9.] Method of communication with parents and emergency responders after the evacuation; and
- [9-10.] Method of communication with parents after the relocation;
- [10-11.] Accommodations or special requirements for infants, toddlers, and children with special needs to ensure their safety during evacuation or relocation; and
- [11-12.] Procedures to reunite children with a parent or authorized person designated by the parent to pick up the child.

22VAC40-111-820. Shelter-in-place and lockdown procedures.

A. Shelter-in-place procedures shall include:

1. Methods to alert caregivers and emergency responders;
2. Designated safe location within the home;
3. Designated primary and secondary routes to the safe location;

4. Methods to ensure all children are moved to the safe location;
5. Methods to account for all children at the safe location;
6. Methods to ensure essential documents, including [attendance records, parent contact information,] emergency contact information, [information on allergies and intolerance to food or medication,] and supplies are taken to the safe location; and
[7. Methods to ensure any special healthcare needs to include medications and care plans; emergency contact information for staff; and supplies are taken to the assembly point or relocation site;]
- [7- 8.] Method of communication with parents and emergency responders;
- [8- 9.] Accommodations or special requirements for infants, toddlers, and children with special needs to ensure their safety during shelter-in-place; and
- [9- 10.] Procedure to reunite children with a parent or authorized person designated by the parent to pick up the child.

B. Lockdown procedures, to include facility containment, shall include:

1. Methods to alert caregivers and emergency responders;
2. Methods to account for all children at the lockdown location;
3. Methods of communication with parents and emergency responders;
4. Accommodations or special requirements for infants, toddlers, and children with special needs to ensure their safety during lockdown; and
5. Procedure to reunite children with a parent or authorized person designated by the parent to pick up the child.

22VAC40-111-830. Emergency response drills.

A. The emergency evacuation procedures shall be practiced monthly with all caregivers and children in care during all shifts that children are in care.

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

C. Lockdown procedures shall be practiced at least annually.

D. Documentation shall be maintained of emergency evacuation ~~and~~, 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 caregivers 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.

~~D.~~ E. Records of emergency evacuation ~~and~~, shelter-in-place, and lockdown drills shall be maintained for one year.

22VAC40-111-850. Reports to department.

A. The provider shall ~~report to the department within 24 hours~~ inform the department's representative as soon as possible but not to exceed one business day of the circumstances surrounding the following incidents:

1. Lost or missing child when local authorities have been contacted for help;
- ~~2. Serious injury to a child while under the family day home's supervision; and~~
- ~~3. 2. Death of a child while under the family day home's supervision; and~~
3. 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.

B. The provider shall inform the department's representative as soon as practicable, but not to exceed two business days, of any [serious] injury to a child while under the home's supervision [when a referral is made for treatment from a medical professional].

C. A written report shall be completed and submitted to the department within five working days of the date the incident occurred.

22VAC40-111-870. General requirements for meals and snacks.

A. Meals and snacks shall be served in accordance with the times children are in care, which include:

1. For family day homes operating less than four consecutive hours at least one snack shall be served.
2. For family day homes operating four to seven consecutive hours at least one meal and one snack shall be served.
3. For family day homes operating seven to 12 consecutive hours at least one meal and two snacks or two meals and one snack shall be served.
4. For family day homes operating 12 to 16 consecutive hours at least two meals and two snacks or three meals and one snack shall be served.

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

C. The family day home shall ~~schedule~~ have scheduled snacks or meals so 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. Children shall be served small-sized portions.

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

F. ~~E.~~ Leftover food shall be discarded from individual plates following a meal or snack.

~~G. F.~~ Tables and high chair trays shall be cleaned after each use, but at least daily.

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

H. When food is prepared that a child in care is allergic to, the caregiver shall take steps to avoid cross-contamination in order to prevent an allergic reaction.

~~[I. Caregivers who prepare and serve food to children, or supervise meals, shall be aware of the food allergies, sensitivities, and dietary restrictions for each child.~~

~~J. I. Caregivers shall not serve prohibited food to a child.~~A child with a diagnosed food allergy shall not be served any food identified in the written care plan required in 22VAC40-111-60.B.2.f.]

22VAC40-111-990. Requirements for drivers.

A. Drivers must be 18 years of age or older.

B. The provider shall ensure that during transportation of children the driver has:

1. A valid driver's license;
2. The name, address, and telephone number of the family day home;
3. A copy of the parent's written permission to transport the child;

4. A copy of each child's emergency ~~contact~~ care information as required in 22VAC40-111-60 B 2;

5. Allergy care plan and information as required in 22VAC40-111-60 B 2;

~~5. 6.~~ Emergency supplies as required in 22VAC40-111-760; and

~~6. 7.~~ A mechanism for making telephone calls to emergency responders and parents ~~(e.g., change, calling card, cellular phone)~~ such as a cellular phone.

[22VAC40-111-1020. Nighttime care.

A. For nighttime care during which a child sleeps more than two hours, the following is required:

1. A child shall have a rest area that meets the requirements of 22VAC40-111-510;

2. An infant shall have an individual crib that meets the requirements of 22VAC40-111-520; and

3. Linens shall be provided that meet the requirements in 22VAC40-111-530.

4. Bath towels used for nighttime care shall be assigned for individual use.

5. Beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours and are not required to sleep in cribs.

B. For children in nighttime care, quiet activities and experiences shall be available immediately before bedtime.

C. Providers shall establish a bedtime schedule for a child in consultation with the child's parent.

D. An operational tub or shower with heated and cold water shall be provided.

~~D.~~ E. Separate sleeping and dressing areas shall be provided for children of the opposite sex over six years of age.

~~E.~~ F. Each child shall have a toothbrush, and a comb or hair brush assigned for individual use.

~~F.~~ G. Each child nine months of age or older shall have flame-resistant or snug-fitting sleepwear.

~~G.~~ H. Bath towels and washcloths, when used, shall be assigned for individual use and laundered as needed, but at least weekly.

~~H.~~ I. A child shall have a routine that encourages good personal hygiene practices including bathing (if needed) and teeth brushing.

~~I.~~ J. Caregivers shall remain awake until all children are asleep and shall sleep on the same floor level as the children in care.

~~J.~~ K. A baby monitor shall be used if the caregiver is not sleeping in the room with the child or in a room adjacent to the room where the child is sleeping.]