

## VOLUNTARY REGISTRATION OF FAMILY DAY HOMES – REQUIREMENTS FOR CONTRACTING ORGANIZATIONS

## PART I.

## INTRODUCTION.

## 22 VAC 40-170-10. Definitions.

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

"Applicant" means a person 18 years of age or older who has applied for an initial certificate of registration.

"Certificate of registration" means a document issued by the commissioner to a family day [home] provider acknowledging that the provider has been certified by the contracting organization or the department and has met the Voluntary Registration of Family Day Homes - Requirements for Providers (22 VAC 40-180-10 et seq.) [or the current regulation] under the Voluntary Registration Program for Family Day Homes.

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

"Commissioner" means the Commissioner of ~~Social Services~~ the department, his designee or authorized representative.

"Commissioner's designee" means a designated individual or division within the Department of Social Services who is delegated to act on the commissioner's behalf in one or more specific responsibilities.

"Contract" means the document signed by the Department of Social Services and the contracting ~~agency~~ organization.

"Contracting organization" means the agency ~~which has been selected by~~ that has contracted with the Department of Social Services to administer the voluntary

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registration program for family day homes.

"Cooperative agreement" means an agreement between or among contractors administering the Voluntary Registration Program.

"Denial of certificate of registration" means a refusal by the commissioner to issue a certificate of registration.

"Department" means the ~~Virginia~~ State 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 ~~in~~ carrying out the responsibilities and duties specified in Chapter 10 (~~§ 63.1-195 et seq.~~) of Title 63.1 of the Code of Virginia.

~~["Division" means Division of Licensing Programs.]~~

"Evaluate" or "evaluation" means the review of a family day-care ~~[home]~~ provider by a contracting organization upon receipt of an application for a certificate of registration to verify that the applicant meets the requirements for providers.

"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 care provider's own children and any children who reside in the home, when at least one child receives care for compensation. ~~From July 1, 1993, until July 1, 1996, family day homes serving nine through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. Effective July 1, 1996, the family day homes serving six through 12 children, exclusive of the provider's own children, shall be licensed. The provider of a licensed or~~

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registered home family day home shall disclose to the parents or guardians of the children in care the percentage of time per week that persons other than the provider will care for children. Family day homes serving six through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed.

However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed.

~~"Family day provider applicant" or "provider applicant" means a person at least 18 years of age who has applied for a certificate of registration.~~

~~"Good character and reputation" means findings have been established and knowledgeable and objective people agree that the individual (i) maintains business or , professional, family, and community relationships which that are characterized by honesty, fairness, truthfulness, and dependability, and (ii) has a history or pattern of behavior that demonstrates a concern for the well-being of others to the extent that the individual is considered suitable and able to administer a program for to be entrusted with the care, supervision, and protection of children. Relatives by blood or marriage, and persons who are not knowledgeable of the individual, such as recent acquaintances, ~~may~~ shall not be considered objective references.~~

"Monitor" or "monitoring visit" means to visit a registered family day [home] provider to review the provider's compliance with ~~applicable~~ the Requirements for Providers (22

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VAC 40-180) or a visit to the contracting organization to review the organization's compliance with the Requirements for Contracting Organizations (22 VAC 40-170) and any other applicable requirements.

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

"Provider" or "registered family day [home] provider" means a person who has received ~~an initial or renewed~~ a certificate of registration issued by the commissioner. This provider has primary responsibility ~~in~~ [for] providing care, protection, supervision, and guidance for children in the registered home.

"Provider assistant" or "assistant" means a person 14 years of age or older who has been designated by the family day [home] provider and approved by the contracting organization to assist the provider or substitute provider in the care, protection, supervision, and guidance of children in the home.

"Refusal to renew a certificate of registration" means the nonissuance of a certificate of registration by the commissioner after the expiration of the existing certificate of registration.

"Registered family day home" means any family day home ~~which~~ that has met the standards for voluntary registration for such homes pursuant to regulations prescribed by the Board of Social Services and ~~which~~ that has obtained a certificate of registration from the Commissioner of Social Services.

"Registration fee" means the payment to a contracting organization by a provider or

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applicant upon filing an application for a certificate of registration.

"Renewal of a certificate of registration" means the issuance of a certificate of registration by the commissioner after the expiration of the existing certificate of registration.

~~"Requirements for Contracting Organizations" means the definitions for key terms and the staff and service requirements for contracting organizations.~~

~~"Requirements for Providers" means the procedures and general information set forth for providers operating family day homes who voluntarily register. This includes staffing requirements and a self-administered health and safety checklist.~~

"Revocation of a certificate of registration" means the removal of a provider's current certificate of registration by the commissioner for failure to comply with the applicable requirements for providers.

"Sponsoring organization" refers to an agency administering the ~~USDA's adult and child food nutrition program~~ USDA Child and Adult Care Food Program.

"Staff member" means a person employed by or working for a contracting organization on a regularly scheduled basis. This includes full-time, part-time, and voluntary staff, whether paid or unpaid.

"Substitute provider" means a ~~provider~~ person at least 18 years of age who meets the Requirements for Providers, is approved by the department and who is readily available to provide substitute child care in a registered provider's home or in the substitute provider's home.

"Surrender of a certificate of registration" means voluntary termination of a certificate of

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registration by a provider prior to expiration.

"USDA" means the United States Department of Agriculture.

22 VAC 40-170-20. ~~Legal authority. (Repealed.)~~

~~The Code of Virginia was amended and § 63.1-196.04 was added in the 1991 General Assembly session to establish provisions for the voluntary registration of family day homes. In 1993, § 63.1-196.04 of the Code of Virginia was amended and reenacted to include a new definition of a family day home.~~

## PART II.

## ADMINISTRATION OF CONTRACTING ORGANIZATIONS.

22 VAC 40-170-30. Eligibility and qualifications.

A. Any public or private for-profit or nonprofit organization may apply to become a family day contracting organization, provided the organization meets the eligibility requirements.

B. In order to secure, maintain or renew a contract to provide registration services for family day homes, a contracting organization shall demonstrate its ability to provide for sound facility and finances, permanent records, the collection of fees, the maintenance and provision of reports, officers and agents [~~who~~ that] have good character and reputation, and as set forth below.

1. The contractor shall maintain adequate facilities as verified by an on-site visit prior to approval of the contract and subsequent inspections and monitoring visits.

2. The contractor shall demonstrate its ability to provide for sound financial

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management through submission of:

- a. Financial statements of the organization for which an independent auditor has rendered an opinion for the most recent fiscal year;
  - b. A report on the internal control structure of the organization prepared by an independent auditor for the most recent fiscal year, which [~~is free of~~ indicates freedom from] material weaknesses that affect the fiscal management capabilities of the organization; and
  - c. Any program audit or review performed by state and federal agencies prepared within the last two years which is free of material weaknesses that affect the fiscal management capabilities of the organization.
3. The contractor shall provide for workers' compensation insurance required by Virginia law and a minimum of \$500,000 liability insurance.
4. Contracting requirements.
- a. The contracting organization must meet the applicable contracting requirements of the commissioner and the State Board of Social Services and the Requirements for Contracting Organizations.
  - b. The commissioner may give preference to contracting organizations [~~which~~ that] serve large geographic areas and may limit the number of contractors based on available resources.
  - c. The commissioner may modify the territories assigned to contractors to better facilitate the administration of the registration program at any time.
5. Training, technical assistance, and information. The organization shall provide

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training ~~or~~ and educational information, technical assistance and consultation to providers (See 22 VAC 40-170-150 and 22 VAC 40-170-200).

6. Program requirements. The contracting organization shall:

- a. Process applications for voluntary registration;
- b. Certify family day homes as eligible for registration (as noted in 22 VAC 40-170-160);
- c. Provide educational information to parents;
- d. Maintain a list of substitute providers who are voluntary registrants [~~which~~ that] shall be given to providers upon request; and
- e. Provide information as required under the Freedom of Information Act (§ ~~2.1-340 et seq.~~ 2.2-3700 et seq. of the Code of Virginia) and ~~Privacy Protection Act~~ Government Data Collection and Dissemination Practices Act (§ ~~2.1-377 et seq.~~ 2.2-3800 et seq. of the Code of Virginia).

7. Monitoring, complaints and referrals. The contracting organization shall:

- a. Monitor family day [home] providers for compliance with ~~health and safety checklist~~ the Requirements for Providers (as described in 22 VAC 40-170-190);
- b. Respond to routine complaints under the directions of the department (as noted in 22 VAC 40-170-180);
- c. Make appropriate referrals to state and local agencies; and
- d. ~~Encourage provider participation in~~ Provide information about the USDA food program and refer interested persons to sponsoring organizations.

8. The contracting organization shall comply with all performance provisions and level of service provisions as specified in the executed contract.

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C. The contracting organization may elect to provide training and may subcontract for the provision of this training to providers. The contracting organization shall ensure that:

1. An agency under subcontract complies with all applicable Requirements for Contracting Organizations in the delivery of training to the providers;
2. Trainers meet the criteria set forth in 22 VAC 40-170-150; and
3. A copy of the subcontract between the contracting organization and the agency subcontracted to perform training shall be maintained on file with the contracting organization.

22 VAC 40-170-40. Administrative responsibility.

A. A privately operated contracting organization shall have a governing board of at least three members that has the authority to:

1. Set overall administrative and operational policies for the contracting organization;
2. Ensure the financial viability of the contracting organization;
3. Ensure policies pertaining to, but not limited to:
  - a. Program services;
  - b. Personnel recruitment, selection, training and performance evaluation; and
  - c. Data collection and reporting;
4. Oversee fiscal operations, including budget and resource development.

B. The governing board shall delegate responsibility for day-to-day operations to an executive director or administrator. The director shall maintain minutes and attendance records of board meetings for review by the [~~division~~ department].

C. A publicly operated contracting organization shall have an advisory committee of at

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least three people that offers advice and counsel to the contracting organization on the fiscal and administrative operations of the family day [home] registration program. The director shall maintain minutes and attendance records of advisory committee meetings and attendance for review by the ~~[division]~~ department.

~~D. The governing board of a private contracting organization or the director of a public contracting organization shall appoint a review committee of at least three people who shall:~~

- ~~1. Review recommendations to the commissioner to deny, revoke or refuse to renew a certificate of registration if requested by the provider;~~
- ~~2. Exclude from its membership staff members responsible for recommending decisions regarding the denial, revocation or refusal to renew a certificate of registration; and~~
- ~~3. Maintain on file documentation of its findings.~~

~~E. D.~~ The contracting organization shall make family day registration services available to those who request it.

22 VAC 40-170-50. Inspection and monitoring of contractors.

A. The department will conduct a comprehensive programmatic inspection of the contracting organization to determine compliance at least once during the contract period.

B. Each contract period shall be two years or as established by the department.

C. An authorized representative of the department may make an announced or unannounced visit at any time during the contracting organization's normal operating hours to monitor the contracting organization and review files, reports or records to

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determine its compliance with the requirements and to investigate a complaint.

D. The department shall notify the contracting organization in writing whenever the department determines that the contracting organization is operating in violation of any of the Requirements for Contracting Organizations. Notifications will specify the plan of corrective action, including completion date, that must be taken by the contracting organization in order to abate the violation or violations.

E. If the contracting organization fails to abate the violation or violations or commits subsequent violations, the contract may be revoked or refused renewal. A contract may also be revoked or refused renewal for:

1. Any activity, policy or conduct that presents a serious or imminent hazard to the health, safety and well-being of a child;
2. Demonstrating of unfitness or inability to operate or to administer the voluntary family day registration program in accordance with the contract or this regulation;
3. Using fraud in obtaining or maintaining a contract;
4. Any fiscal policies, procedures, or conduct ~~which~~ that demonstrate inadequate fiscal management of program funds; or
5. Failing to comply with the cooperative agreement among contractors.

F. If a contracting organization's approval is revoked or refused renewal or if the contract is terminated for any reason, all records related to voluntary registration shall be brought up to date, put in good order, and given to the department within five working days.

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22 VAC 40-170-60. Reporting requirements.

A. The contracting organizations or any staff member shall notify the local department of social services or the [state] department's [~~Child Protective Services office~~ toll-free child abuse and neglect hotline] as specified in Chapter 12 15 (§ ~~63.1-248.3 et seq.~~ 63.2-1509 et seq.) of Title ~~63.1~~ 63.2 of the Code of Virginia, whenever there is a reason to suspect that a child [in care] has been subjected to abuse or neglect by a provider or any other person.

B. The contracting organization or any staff member shall notify the department immediately of any imminent danger [~~or dangers~~] or hazard [~~or hazards~~] that threaten the health and safety of children in the provider's home.

~~C. The contracting organization shall notify the division and the local health department in the provider's municipality of the occurrence of a communicable disease. Such notification shall be made by the next working day after the contracting organization learns of the occurrence.~~

~~D.~~ C. The contracting organization shall notify the [~~central office of the division department~~], orally, of any of the following changes or events by the next working day after the contracting organization learns of their occurrence and in writing within five work days:

1. Injury that results in the emergency medical treatment or the admission of a child to a hospital while in the care of a provider;
2. Lost or missing child when it was necessary to seek assistance of local emergency or police personnel;

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3. The death of a child while in the care of a provider;
4. Damage to the contracting organization's offices that affects the operation of family day registration;
5. Any criminal charge or charges and their disposition or dispositions, as specified in ~~§ 63.1-198.1~~ 63.2-1719 of the Code of Virginia, of the staff of the contracting organization or of a provider, substitute provider, provider assistant, or member of a provider's household;
6. Cancellation of the contracting organization's general or comprehensive liability insurance coverage;
7. Unanticipated permanent or temporary closing of the contracting organization or the registration program; and
8. ~~The [A]~~ provider is exceeding the number of children allowed under registration and is required by law to be licensed.

~~E. D.~~ The contracting organization shall notify the [~~division~~ department] orally within three working days, of any change in office location or the director of the contracting organization or the registration program and in writing within five work days.

~~F. E.~~ The contracting organization shall report statistical data as noted in 22 VAC 40-170-70 and specified by the contract.

22 VAC 40-170-70. Contracting organization records.

A. The contracting organization shall maintain the following records:

1. Administrative records.

~~a. The Requirements for Voluntary Registration of Family Day Homes;~~

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~~b.~~ The document providing information to parents as specified in ~~22 VAC 40-170-210~~;

~~e.~~ a. Staff records, as specified in 22 VAC 40-170-100;

~~d.~~ b. A copy of the contracting organization's insurance policies as specified ~~here and by the contract~~ and in 22 VAC 40-170-30 B 3;

~~e.~~ c. Documentation of all funds collected and expended related to the administration of the program, including registration fees;

~~f.~~ d. A copy of the contracting organization's financial records and audits;

~~g.~~ e. Documentation of training sessions conducted by the contracting organization or subcontractors and the qualifications of trainers;

~~h.~~ f. Files documenting recommended denials, surrenders, revocations and nonrenewals of certificates of registration ~~and appeals~~ as specified in 22 VAC 40-170-230;

~~i.~~ g. A copy of corrective action plans to abate violations of the Requirements for Contracting Organizations;

~~j.~~ h. A copy of the inspection and monitoring visit reports completed by the department; and

~~k.~~ i. A copy of the cooperative agreements with other contractors.

2. A copy of contracts between the contracting organization and any subcontracted agency to perform training related to family day registration.

3. Records on providers as specified in Part IV (22 VAC 40-170-140 et seq.) and all documents related to the registration application. Records shall also be kept on providers who have discontinued family day [home] services, and additional information

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as may be received regarding the provider's compliance with the Requirements for Providers.

B. The contracting organization shall, within 30 days after the end of each quarter, submit ~~quarterly~~ narrative and statistical reports including, but not limited to:

1. The total number of registered providers;
- ~~1.~~ 2. The number of applications pending and withdrawn;
- ~~2.~~ 3. The training information listed in 22 VAC 40-170-150 G;
- ~~3.~~ 4. Program income and expenditures as noted in 22 VAC 40-170-170;
- ~~4.~~ 5. Number of monitoring visits, the areas of noncompliance and the results of any complaint investigations; and
- ~~5.~~ 6. Narrative reports on progress or impediments related to the attainment of goals and objectives set forth in the contract.

C. The administrative records specified in this section shall be maintained by the contracting organization for three calendar years.

22 VAC 40-170-80. Complaints against a contracting organization.

A. Complaints against a contracting organization ~~shall~~ will be investigated by the department. An investigation ~~shall~~ will be conducted to determine compliance with the contract and the Requirements for Contracting Organizations. The contracting organization ~~shall~~ will be notified of the findings by the department.

B. If the contracting organization wishes to appeal an administrative decision that does not result in revocation of the contract by the department, the contractor ~~may~~ shall follow an informal appeal process as outlined in the [~~Department of Social Services,~~

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~~Division of Licensing Programs~~ department's current regulation, General Procedures and Information for Licensure (22 VAC 40-80-10 et seq.).

C. The contracting organization may appeal a decision by the department resulting in a revocation decision in accordance with the Administrative Process Act (§ ~~9-6.14:1 et seq.~~ 2.2-4000 et seq. of the Code of Virginia).

22 VAC 40-170-90. Public access to records.

A. The contracting organization shall make the following files available for public review:

1. Active applications for a certificate of registration and related materials or documentation;
2. List of registered providers updated quarterly;
3. Correspondence between the contracting organization and the provider or other parties in matters pertaining to the contracting organization's monitoring or registration of the provider;
4. Evaluation and monitoring reports, where applicable, reflecting the results of the contracting organization's evaluation and monitoring of the provider;
5. Forms and other standard documents used to collect routine data on the provider as part of the provider's record of compliance with the Requirements for Providers;
6. Enforcement letters from the contracting organization requiring abatement of violations of the Requirements for Providers;
7. Correspondence to the contracting organization from the department regarding enforcement actions against the provider;
- ~~8. Chronological lists of events about the provider on compliance and enforcement~~

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matters;

~~9.~~ 8. Completed complaint investigations reports, except child abuse or neglect investigations or other information restricted by the requirements of Chapter ~~42~~ 15 (§ ~~63.1-248.1 et seq.~~ 63.2-1500 et seq.) of Title ~~63.1~~ 63.2 of the Code of Virginia or other state law; and

~~10.~~ 9. Any other documents, materials, reports, or correspondence that would normally be included as part of the public record shall remain on file for three years.

B. The contracting organization shall keep confidential and not part of the public record the following:

1. Records, reports or correspondence that pertain to child abuse or neglect investigations involving enrolled children and any other information pertaining to children, parents or providers that are restricted from public access under Chapter ~~42~~ 15 (§ ~~63.1-248.1~~ 63.2-1500 et seq.) of Title ~~63.1~~ 63.2 of the Code of Virginia or other state law;

2. Records, reports, correspondence or forms containing names of enrolled children and their parents;

3. Confidential information with regard to specific contracting organization personnel;

4. Any items that deal with reports of inspection or complaint investigations that are still in progress; and

5. Other material required by state law to be maintained as confidential.

C. If a contracting organization has a question about whether information may be released to the public, the executive director should consult the organization's attorney

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and a representative of the department.

D. Contractors may not charge more than provided under the Freedom of Information Act (§ ~~2.1-340 et seq.~~ 2.2-3700 et seq. of the Code of Virginia) for copies of public information.

~~E. The contracting organization shall maintain on file for the executive director or administrator and for each staff member the information described in Part III (22 VAC 40-170-100 et seq.).~~

## PART III.

## STAFF REQUIREMENTS FOR CONTRACTING ORGANIZATIONS.

22 VAC 40-170-100. General staff requirements.

A. The executive director or administrator, board members, corporate officers, or partners and every staff member of a contracting organization shall be of good character and reputation. Staff shall possess ability to provide services to parents and providers, as specified in these requirements. The director, board members, and corporate officers shall possess ability to direct the organization.

B. Prior to the employment or utilization of the executive director or administrator or a staff member directly involved with administering the registration program, the contracting organization shall require the applicant for executive director or administrator and each staff applicant to complete and sign an application for employment, indicating the applicant's:

1. Name, address and telephone number;

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2. Education and work experience; and

3. ~~Criminal records check and Child Protective Services Central Registry clearance~~

Background checks in accordance with § 63.2-1721 B of the Code of Virginia and the current regulation regarding background checks.

C. Prior to the executive director's or administrator's or any staff member's employment, the contracting organization shall obtain two references, either in writing or orally, from former employers or other persons who have knowledge of the applicant's work experience, education and character. If the reference is given orally, documentation shall be on file with comments. If staff is already employed, references shall be provided within 20 days of signing the contract with the department.

D. The executive director or administrator and every staff member shall notify the contracting organization by the end of the contracting organization's next working day of any criminal convictions or charges filed during their employment or utilization by the contracting organization.

E. Evidence of conviction for crimes of violence, child abuse or neglect or other crimes which may relate adversely to the operation of the contracting organization shall be among those actions that are considered in determining an individual's fitness and suitability to serve as executive director or administrator or as a staff member.

F. Except for crimes specified in § ~~63.1-198.4~~ 63.2-1719 of the Code of Virginia, evidence of conviction of a crime by an individual serving as executive director or administrator, corporate officer, or partner or as a staff member shall not automatically result in the cancellation of the contract. Such determination shall be made on a case-

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by-case basis by the commissioner or the commissioner's designee.

22 VAC 40-170-110. Types and responsibilities of staff.

A. Each contracting organization shall have an executive director or administrator who is responsible for the overall management and administration of the contracting organization's family day registration program.

B. The contracting organization shall have sufficient staff to carry out the family day registration program.

C. The executive director may also serve as a staff member if the administrator has no role in approving providers for the USDA food program. Likewise, staff involved in approving homes for USDA shall not approve homes for registration unless an alternative arrangement is approved by the ~~[division]~~ department.

D. The executive director or administrator shall ensure:

1. That the contracting organization operates in compliance with all applicable Requirements for Contracting Organizations;

~~2. That each provider operates in compliance with all applicable Requirements for Providers;~~

~~3.~~ 2. The supervision of all staff members assigned to the contracting organization's family day [home] registration program;

~~4.~~ 3. The development and implementation of policies and procedures for the day-to-day operation of the contracting organization's family day [home] registration program;

~~5.~~ 4. The orientation of staff members to the policies and procedures of the contracting organizations;

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~~6.~~ 5. The development and maintenance of administrative, fiscal and program records;

and

~~7.~~ 6. The development and implementation of a program of outreach, public relations, and technical assistance as directed by the [~~division~~ department].

22 VAC 40-170-120. Staff qualifications.

A. The executive director or administrator shall possess a bachelor's degree and a minimum of two years of managerial or supervisory experience. The degree and experience shall be in the field of human services, child care services, child development, education, psychology, nursing, social work, or business.

B. Staff members responsible for provider evaluation, monitoring, support, and technical assistance ~~and training~~ shall possess the following:

1. An associate's degree in human services, child care services, child development, education, nursing or social work and one year professional experience working with children; or

2. A high school diploma or General Education Development (GED) diploma and three years of experience in the field of human services, child care services, child development, education, nursing, psychology, or social work and at least one year of which must be professional experience working directly with children.

22 VAC 40-170-130. Staff training.

The executive director or administrator shall:

1. Provide staff members with access to a copy of the Requirements for Contracting Organizations and the Requirements for Providers.

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2. Ensure that staff, as appropriate, are trained in:
  - a. Recognizing and reporting child abuse or neglect;
  - b. Evaluating provider applicants as specified in 22 VAC 40-170-140;
  - c. Conducting or securing training sessions for providers when requested;
  - d. Monitoring providers as specified in 22 VAC 40-170-190;
  - e. Providing technical assistance to providers as specified in 22 VAC 40-170-200;
  - f. Procedures for identification and referral of special needs children; and
  - g. Recruiting providers for registration and promoting the program through public relations as directed or approved by the ~~division~~ department.
3. Ensure staff designated to conduct training meet the qualifications set forth for trainers in 22 VAC 40-170-150.

## PART IV.

## SERVICE REQUIREMENTS FOR CONTRACTING ORGANIZATIONS.

22 VAC 40-170-140. Evaluation of family day [home] provider applicants.

- A. The contracting organization shall provide to each applicant for a certificate of registration the following information:
  1. A voluntary registration provider application, including the health and safety checklist;
  2. A request form for a criminal records check and a Child Protective Services (CPS) Central Registry clearance;
  3. A sworn disclosure statement;
  4. A copy of the Requirements for Providers;

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5. A list of sponsoring organizations for the USDA food program;
  6. A list of all contracting organizations; and
  7. Other forms and information as required by the [~~division~~ department].
- B. The contracting organization's evaluation of each applicant shall include a review of the information required on the application for registration and other program requirements.
- C. The contracting organization shall evaluate each provider prior to recommending certification, denial or refusal to renew the provider's certificate of registration.
- D. The contracting organization shall visit each applicant's home as described in 22 VAC 40-170-190 prior to recommending the issuance of the certificate of registration and at renewal to evaluate the applicant's compliance with the Requirements for Providers.
- E. A renewal application packet ~~will~~ shall be sent to the provider no later than 90 days prior to the expiration of the current certificate of registration.
- F. If needed, the provider and contracting organization shall complete a corrective action plan during the initial home visit. This will briefly describe any standard not met, the action to be taken to meet it, the date by which it will be completed, and the signature of the provider.

22 VAC 40-170-150. Training of family day [home] providers.

- A. The contracting organization shall supply to each provider:
1. Prior to recommending the issuance of a certificate of registration, a copy of appropriate informational materials supplied by the department; and

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2. From time to time, any other available materials that may assist the provider in operating a family day home.

B. The contracting organization shall ensure training or educational materials are available and easily accessible to providers prior to recommending the issuance of a certificate of registration and after being awarded the certificate by the commissioner.

C. Training or educational materials shall include information regarding, but not limited to, the following subjects:

1. Child development;
2. Discipline;
3. Safety, ~~first aid~~ and emergency evacuation procedures;
4. Health and sanitation;
5. Nutrition;
6. Program activities;
7. Child abuse detection and prevention;
8. Parent-provider communication;
9. Injury prevention; ~~and~~
10. ~~Special needs training.~~ Serving children with disabilities; and
11. First aid and CPR, as appropriate to the ages of children in care.

D. Where training is provided, sessions for provider applicants shall include group or individual instruction by persons with expertise in the areas of instruction. All trainers used, including those under subcontract, shall have the following education and experience:

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1. A.A., B.A., B.S., or advanced degree in early childhood education (ECE), child development, home economics, psychology, nursing, social work, special education or related field from an accredited college or university (the degree must directly relate to the area of training); or
2. A valid professional credential (or certification) from an early childhood education or child development related organization (such as Child Development Associate Credential or National Association for Family Day Care Accreditation); or
3. Have at least four years of substantial compliance with applicable regulations, in a child care setting working directly with children as a caregiver, teacher, child life worker, social worker, or in a similar role in a program serving children of the age represented in the course, seminar or workshop; and
4. At least 12 college level credits in courses directly related to child growth and development and three professional references. A professional reference may not be from a relative, and must directly relate to the training topics for which the applicant is applying.

E. Alternatives to the education or experience requirements in 22 VAC 40-170-150 D will be considered on an individual basis for specialized subject matter that is relevant for child care providers but which does not require academic preparation in early childhood education. The applicant must provide the following documentation for consideration:

1. A written description of education or experience related to the field of expertise under consideration; and

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2. A brief explanation of how the area of expertise relates to early childhood care.

F. Training may be supplemented by:

1. Printed materials;
2. Television broadcasts; or
3. Audio-visual materials.

G. The contracting organization shall maintain on file documentation of training it provides, including for each training session the names of the participants, the goals, a description of the information presented, the date the training occurred and an evaluation.

22 VAC 40-170-160. Issuance of the certificate of registration.

A. If the contracting organization determines that the provider applicant is in compliance with all applicable requirements for providers, the contracting organization shall certify the home as eligible for registration and submit a recommendation on forms prescribed by the commissioner. Upon receipt, the commissioner shall evaluate the recommendation for certification and may register the family day home.

B. The certificate of registration shall be issued by the commissioner to a specific provider at a specific location and shall not be transferable.

C. A provider who has been denied a certificate of registration or has had a certificate revoked or refused renewal by the commissioner shall not be eligible for issuance of a certificate of registration until six months after the date of such action unless the waiting period is waived by the commissioner as noted in Chapter ~~40~~ 17 (§ ~~63.1-195 et seq.~~ 63.2-1700 et seq.) of Title ~~63.1~~ 63.2 of the Code of Virginia.

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22 VAC 40-170-170. Collection of registration fees.

A. The contracting organization shall process all applications for a certificate of registration without regard to the applicant's race, national origin, religion, sex, or age (provider must be at least 18 years of age to register).

B. The contracting organization may collect a nonrefundable biennial registration fee which shall not exceed \$50 from the provider applicant and with each application for renewal of the certificate of registration. The fee shall be paid in the form of check or money order made payable to the contracting organization. This does not include the fee for the criminal records check, CPS Central Registry clearance, or the tuberculosis test.

C. The contracting organization may collect a nonrefundable fee not to exceed \$50 when a registered provider moves to a new address.

~~C.~~ D. The contracting organization may assess a fee not to exceed ~~\$40~~ \$20 for an additional home visit if corrective action is needed after the initial home visit and as specified in the Requirements for Providers.

~~D.~~ E. An additional fee shall not be required if a minor change in the information collected occurs before the expiration date of the current certificate of registration or if the provider requires a duplicate copy of the certificate of registration due to loss or destruction of the original.

~~E.~~ F. The contracting organization shall retain the funds generated by registration fees and shall maintain a record of the registration fees collected from the providers, in accordance with the department's contract requirements.

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~~F. G.~~ The contracting organization shall ensure and document that the registration fees collected are directed to the maintenance or improvement of the contracting organization's voluntary registration program.

22 VAC 40-170-180. Complaints and violations.

~~A. Complaints against a provider and alleged violations by a provider which are directed to the contracting organization shall be referred to the appropriate agency within a timeframe specified by the division. This may include referrals to Child Protective Services, health and safety officials, the appropriate sponsoring organization or USDA office, or the department's regional licensing office if the complaint alleges that the home is subject to licensure. When the contracting organization receives a complaint of alleged violations of the Requirements for Providers, the contracting organization shall investigate the complaint and shall require the provider to correct any violations found.~~

~~1. Complaints of abuse or neglect of children in care shall be referred immediately to Child Protective Services and, where possible, shall be investigated jointly with the local department of social services protective services staff.~~

~~2. Issues not included in the Requirements for Providers, including but not limited to sanitation, fire safety and food service issues, shall immediately be referred to the appropriate agency, including health and safety officials or USDA.~~

~~B. Complaints shall also be received by or referred to the contracting organization with procedures developed under the direction of the department.~~

~~C. B.~~ If, during the course of investigating a complaint, the commissioner determines that it is necessary to revoke a certificate of registration, the contracting organization

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and the commissioner shall take action in accordance with 22 VAC 40-170-230.

22 VAC 40-170-190. Monitoring of family day [home] providers.

A. The contracting organization shall monitor, unannounced, at least 10% of the providers registered who are not participating in the food program every two years to evaluate compliance with the Requirements for Providers. ~~The USDA requires that providers participating in the food program be monitored three times a year and recommends one of these visits be unannounced.~~

B. The contractor shall visit the home during the hours in which care is being provided to children by the provider.

C. The contracting organization shall maintain on file a written report of each monitoring visit to the provider's home.

22 VAC 40-170-200. Technical assistance.

A. The contracting organization shall provide technical assistance to registered providers and parents of enrolled children upon request. This assistance shall include responding to providers' and parents' questions and concerns regarding family day[-]care and referrals to appropriate agencies.

B. The contracting organization shall maintain a listing of support services available in the community and shall refer providers and parents of enrolled children upon request.

C. The contracting organization shall make the following information available to providers:

1. A list of reportable communicable diseases;
2. A list of physical symptoms or conditions that indicate a child may have a

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communicable disease;

3. Guidelines for administration of medication;

4. Guidelines for the care of sick children;

5. Guidelines for positive discipline;

6. A list of services to which a provider is entitled, including:

a. Participating in training sessions offered by or through the contracting organization or the department; and

b. Receiving technical assistance from the contracting organization;

7. Resources for children with a potential or actual handicapping condition. This may include a toll free number for early intervention (1-800-234-1448) or:

a. Informing the parent of the child's rights to a special education program and related services;

b. Referring the parent to the Virginia Department of Education for a possible comprehensive evaluation and individual service plan development for the child; and

c. Referring the parent to the health clinic in the local health department for a possible comprehensive medical evaluation for the child;

8. Information on how to identify children who are victims of abuse and neglect and who to contact if it is suspected; and

9. A copy of the Recommended Childhood and Adolescent Immunization Schedule - United States, 2003, [or the most recent immunization schedule].

22 VAC 40-170-210. Information to parents.

A. The ~~contracting organization~~ department shall will supply to providers sufficient

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~~copies of~~ a written information to parents statement that shall be posted in a conspicuous location in the registered home ~~for the parents of all enrolled children,~~ which indicates:

1. The provider has received a certificate of registration;
2. The provider is required to comply with the Requirements for Providers;
3. The scope and limitations of voluntary registration;
4. The name, address and phone number of the contractor so that parents may receive a copy of the Requirements for Providers by contacting the contracting organizations;
5. Parents may report alleged violations of the Requirements for Providers to the local contracting organizations and complaints about the contractor to the [~~division~~ department];
6. Any person providing full-time or part-time child care for pay on a regular basis who has reason to suspect that a child is an abused or neglected child is required by state law to report the matter immediately to the local social services department (except as prescribed in § ~~63.1-248.3~~ 63.2-1509 of the Code of Virginia) or to call the statewide toll free hotline (1-800-552-7096/TDD). Further, any person may report suspected abuse and neglect as set forth in § ~~63.1-248.4~~ 63.2-1510 of the Code of Virginia;
7. Parents of enrolled children shall be permitted to visit the family day home at any time their child or children are present without having to secure the prior approval of the provider. Parents may be restricted to visit only those areas of the home designated for family day[-]care;
8. The operation of the family day home is subject to unannounced monitoring visits by

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the contracting organization and monitoring of a sample of registered family day homes by the department;

9. Parents may request that the contracting organization provide technical assistance to the parent or the provider, and referrals to appropriate community resources; ~~and~~

10. Parents are advised to ask their provider whether they carry liability insurance; and

11. Providers must inform parents of the percentage of time someone other than the provider will be caring for children.

22 VAC 40-170-230. Denials, revocations, refusals to renew, provider appeals procedures.

A. The contracting organization may recommend to the commissioner that a provider's certificate of registration be denied, revoked, or refused renewal for cause, including, but not limited to:

1. Failure to comply with adult-child ratios, staffing requirements, or other standards set forth in the Requirements for Providers;

2. Use of fraud or misrepresentation in obtaining a certificate of registration or in the subsequent operation of the family day home;

3. Any conduct or activity which adversely affects or presents a serious hazard to the health, safety, and general well-being of an enrolled child, or which otherwise demonstrates unfitness by a provider to operate a family day home;

4. Refusal to furnish the contracting organization or the department with records;

5. Refusal to permit immediate admission to the family day home to the parent of an enrolled child who is present in the home or to an authorized representative of the

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contracting organization or department ~~when any enrolled child is present~~ during the home's hours of operation; or

6. Documentation maintained by a contracting organization or the department that a provider's certificate of registration has been denied, revoked, or refused renewal by the commissioner during the six months prior to the date the application is resubmitted for a certificate of registration.

B. When a provider is found to be in violation of any of the provisions of subsection A of this section, the contracting organization shall notify the provider of the violation or violations first orally and then in writing, and, as appropriate, shall afford the provider an opportunity to abate the violation or violations within a time frame agreed upon by the contracting organization and the provider. The provider shall immediately abate the violation situations where children are at risk of abuse, neglect or serious harm or injury.

C. The contracting organization may recommend to the commissioner that the certificate of registration be denied, revoked, or refused renewal if the provider fails to abate the violation or violations within the agreed upon time frame or commits a subsequent violation. A statement referencing the standard violated shall be included with the recommendation.

~~D. Upon notification of the contracting organization's intent to recommend to the commissioner that a certificate of registration be denied, revoked or refused renewal, the contracting organization shall give written notice to the provider within five calendar days, specifying the reason for such action, either by hand delivery or by certified mail with return receipt requested. The notice shall afford the provider an opportunity to~~

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~~request, in writing, a review within 15 calendar days after receipt of notification before the contracting organization's review committee.~~

~~E. If the provider requests a review, the contracting organization's review committee shall consider each recommendation to deny, revoke, or refuse renewal within 15 calendar days of receiving the provider's request and shall afford the provider an opportunity to be heard. The review committee shall issue a written report of its findings to the provider and the commissioner's designee within five working days after completing its review.~~

~~F. D. The contracting organization shall submit its recommendation to the commissioner's designee who shall make a decision to accept or refuse the recommendation.~~

~~G. E. If the commissioner's designee upholds the recommendation to deny, revoke, or refuse renewal, the commissioner's designee shall will inform the provider that the decision may be appealed in accordance with the Administrative Process Act (§ ~~9-6.14:1 et seq.~~ 2.2-4000 et seq. of the Code of Virginia) and a hearing may be requested in writing within 15 calendar days after receipt of the notification of the decision.~~

~~H. F. After a hearing, the commissioner shall issue the final order and shall notify the provider that this order may be appealed in accordance with the Administrative Process Act (§ ~~9-6.14:1 et seq.~~ 2.2-4000 et seq. of the Code of Virginia).~~

~~I. If the provider's certificate of registration is revoked or refused renewal by the commissioner or the commissioner's designee, the contracting organization shall~~

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~~request that the provider notify the parent of each child enrolled in the family day home within 10 calendar days of such action.~~

FORMS

~~Voluntary Registration Contracting Organization's Recommendation to Deny, Revoke, Refuse to Renew, or Close Certificate of Registration, 032-05-209/1 (rev. 10/00).~~

DOCUMENT INCORPORATED BY REFERENCE

Recommended Childhood and Adolescent Immunization Schedule-United States, 2003.

I certify that this regulation is full, true, and correctly dated.

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Julie Christopher, Chairman  
State Board of Social Services  
December 15, 2004