



Proposed Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-181
Regulation title	Standards for Voluntary Registration of Family Day Homes
Action title	Adopt new Voluntary Registration of Family Day Homes – Requirements for Providers
Date this document prepared	February 16, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The proposed regulatory action is a joint action to repeal the existing regulation 22 VAC 40-180, and establish a comprehensive new regulation, 22 VAC 40-181, for voluntary registration of family day homes. The new regulation will not only clarify existing regulations and provide for consistent interpretation but will strengthen the following general areas: care and services for children; staff qualifications and training requirements; management of the family day home; physical plant and equipment requirements; disclosure of information to parents; and emergency preparedness. Lastly, the new regulation will incorporate statutory changes that have been made since April 1993 which include changes to the definition of a family day home; changes in background check requirements; requirements for proof of a child's age and identity; medication administration; and liability insurance disclosure.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

MAT – Medication Administration Training
CPSC – Consumer Product Safety Commission

USDA – United States Department of Agriculture

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The following sections of the Code of Virginia are the sources of the legal authority to promulgate this regulation: § 63.2-217 of the Code of Virginia (mandatory) says that the State Board shall adopt regulations as may be necessary or desirable to carry out the purpose of Title 63.2 of the Code of Virginia. Section 63.2-1704 (mandatory) requires the Board adopt regulations for voluntary registration of small family day homes that include, but are not limited to: (1) the criteria and process for the approval of a certificate of registration; (2) requirements for a self-administered health and safety evaluation checklist; (3) a schedule for fees to be paid by providers to the contract organization (or to DSS if it implements the provisions of this section) for processing applications for the voluntary registration of family day homes; (4) the criteria and process for the renewal of the certificate of regulation; the requirement that upon receipt of a complaint concerning a registered family day home, the commissioner shall cause an investigation to be made, including on-site visits as he deems necessary, of the activities, services, and facilities. Section 63.2-1721 of the Code of Virginia (mandatory) requires applicants for voluntary registration to undergo a background check.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The new regulation replaces the current regulation, Voluntary Registration of Family Day Homes – Requirements for Providers which became effective in 1993. The goal of the regulation is to protect the health, safety and well-being of children receiving care in voluntarily registered family day homes.

There have been multiple changes to the Code and in the child care industry since the regulation became effective. These changes include: changes in the definition of a family day home; changes in background check requirements; the addition of a requirement for proof of a child’s age and identity; and numerous changes in health and safety practices to reduce risks in the environment and to ensure that the activities and services are conducive to the well-being of children.

Repeal of the existing regulation and adoption of a comprehensive new regulation is the most efficient and effective way to make the necessary changes to achieve clarity and consistency. The new regulation will be clear and easy to follow, will incorporate all applicable requirements from the Code, and will provide reasonable health and safety guidelines for the protection of children cared for in these small family day homes. The regulatory action will also ensure the parent’s right to make informed decisions about the care of their child in a voluntarily registered family day home.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

The majority of the provisions of the repealed regulation will be incorporated into the new regulation.

Statutory changes also necessitate changes and additions to the regulation; these will be incorporated in the new regulation and include provisions pertaining to: (1) proof of a child's identity and age; (2) requirements for providers to disclose to parents the percentage of time persons other than the provider will care for the child; (3) background clearance requirements for consistency with changes in the law and applicable regulations; (4) disclosure whether the family day home has liability insurance; (5) medication administration policy and training requirements; and (6) staff-to-child ratio requirements.

Additional changes include, but are not limited to, inclusion of: establishing time limits to complete an application; revisions to the appeal, denial and revocation requirements to comply with the Administrative Process Act and established division procedures; recordkeeping and reporting responsibilities of providers; revising the fees charged for follow-up inspections and establishing procedures for providers who change location during the certification period; training requirements; posting of the certificate of registration and Information to Parents Statement; updating children's physical examination and immunization requirements; requiring providers, and any caregivers left alone with children, be able to read, write, and communicate in English sufficient to meet the requirements and to communicate with licensing and emergency personnel; and updates to address national health and safety practices.

The proposed regulation adds requirements related to operational responsibilities of the provider; clarifies the capacity of a voluntarily registered family day home; clarifies the responsibility of the provider to provide orientation to assistants and substitute providers; and limits the number of calendar hours a substitute provider may care for children. The proposed regulation adds or strengthens requirements associated with hanging, suffocation or drowning hazards; firearms; sharp objects; machinery; heaters; water supply; availability of telephones; fans; stairs; animals; smoking; prohibited actions; play areas and equipment; rest areas; cribs; supervision; programs for children; daily activities for children in care; behavioral guidance; swimming and wading activities; overnight care; exclusion of sick children; emergency information; emergency preparedness and response plans; evacuation, shelter-in-place and emergency relocation procedures; reports to the department and contract agency; feeding infants; and transportation and vehicles.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

The primary advantage of the proposed regulatory action is the increased protection it will provide to children receiving care in voluntarily registered family day homes. The proposed regulatory action strengthens the standards to provide much needed improvements for care and services; qualifications, training, and responsibilities of staff who provide care and services; for management of the operation of the home; and for the building and grounds where care is provided.

When requirements are strengthened, there must be a balance between the benefit and associated costs. In the proposed regulatory action, a fair and reasonable balance has been attempted throughout the regulation.

The advantage to the Commonwealth is that the proposed action reflects the importance that Virginia places on ensuring adequate child care for children of working parents. Additionally, the proposed changes promote consistency with other child care regulations. There are no disadvantages to the Commonwealth.

It is possible that voluntarily registered family day homes will pass along some of the increased costs to parents. It is also for this reason that associated costs were kept to a minimum.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements that are more restrictive than any applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

Voluntary registration of family day homes is available throughout the Commonwealth in every locality except those localities in which the governing body provides by ordinance for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities pursuant to the provisions of § 15.2-914. There is no locality that would be particularly affected by this regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Town Hall website, www.townhall.virginia.gov, or by mail, email or fax to Cynthia Carneal Heflin, Voluntary Registration

Consultant, Division of Licensing Programs, 801 E. Main Street, 9th Floor, Richmond, Virginia 23219-2901, telephone (804) 726-7140, fax (804) 726-7132 or e-mail cynthia.carneal@dss.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and the Commonwealth Calendar. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements create the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>Implementation and enforcement of the new regulation will not result in any significant increased cost to the State. Contract agency staff and licensing staff with responsibility for implementation and enforcement are currently in place.</p> <p>The size of the regulation will increase, which will result in a slight increase in the cost of printing and distribution, particularly during initial implementation. These costs will be funded by the Division of Licensing Program’s budget.</p> <p>Slight cost increases can also be anticipated for one-time staff and provider training upon implementation of the new regulation. Application fees, to the extent possible, will be used to cover the cost of provider training; staff training costs will be funded by the Division of Licensing Program’s budget.</p>
<p>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</p>	<p>None.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</p>	<p>Voluntarily registered family day home providers will be affected by this regulation. Children and their families will also be affected by this regulation in that it strengthens their protections.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are approximately 1,050 voluntarily registered family day homes that will be affected. Each voluntarily registered family day home is considered a small business. The estimated number of children in care who will be affected is 5,250.</p>
<p>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting,</p>	<p>\$35 for first aid certification for providers who are not currently certified. (Note: any provider receiving subsidy funds must already be certified in CPR and first aid.)</p>

<p>recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>\$70 for CPR certificate for providers who are not currently certified. (Note: any provider receiving subsidy funds must already be certified in CPR and first aid.)</p> <p>\$5 for new staff orientation</p> <p>\$40 for in-service training per two-year voluntary registration certification period. (Providers that are participating in USDA food program or receiving subsidy funds are already taking training each year to meet this requirement.)</p> <p>\$40 per person salary costs for assistants or substitutes to receive paid training (This would be at the provider's discretion for those providers using assistants or substitutes.)</p> <p>\$75 for medication administration training for providers who choose to administer non-prescription medication to enrolled children.</p> <p>Up to \$1000 for a fence or barrier around any play areas located within 30 feet of unfenced in-ground pools, fountains, ponds; or within 30 feet for hazards including railroad tracks or streets with posted speed limits over 25 mph (There are no known current providers that would be impacted by this change as it has been current practice evaluating overall safety of the play area.)</p> <p>\$10 for each set of bed linens, if purchased.</p> <p>\$15 for baby monitor if nighttime care is provided and provider is not sleeping in the room with the child or in an adjacent room.</p> <p>\$15 for battery-operated radio.</p> <p>\$15 for phone service if phone is not currently in the home and the provider does not have a cell phone.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Increase the protections offered to children and their families when choosing a small family day home. Also the cost of day care in small family day homes is significantly less than placing a child in a licensed family day home or in a child day center. Therefore, voluntarily registered family day homes are beneficial to working families of the Commonwealth.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The new regulation is a comprehensive revision of the current regulation. Because of extensive changes and reorganization, the current regulation is being repealed and this new regulation is being promulgated. In developing this proposal, consideration was given to the necessity, the enforceability, reasonableness, and the cost impact of the regulation. Public comment was solicited. The regulation for licensed family day home was examined and standards were included when reasonable and could be directly linked to improving protections to children. Regulations from other states were examined. The department consulted with contract agency representatives, registered providers, and licensing staff through a series of meetings, e-mails, and telephone contacts. All voluntarily registered family day homes meet the definition of a “small business” and the new regulation is the least burdensome, least intrusive, and least costly alternative to best protect the health, safety, and welfare of children in care.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Section 63.2-1704 of the Code of Virginia mandates the State Board of Social Services to adopt regulations to implement the voluntary registration of family day homes. Such regulations shall provide guidelines for the following: health and safety requirements for the home; background check requirements and eligibility requirements; initial and renewal application process; schedule of fees; process for determining compliance using a self-assessment tool that provider’s complete prior to initial and renewal inspections; and investigating complaints. The department has collaborated with contract agency staff and providers to develop this regulation which represents the best alternative to minimize the adverse impact on small family day home business while strengthening the protection of children in care.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

The proposed regulation was developed in consultation with an advisory panel comprised of five representatives from the contracting organization and three providers, as well as close consultation with Division of Licensing Staff that developed the standards for licensed family day homes and with comments from the Office of Early Childcare and Development regarding providers that receive subsidy funds. The advisory panel met once and communicated via e-mail on several occasions regarding

various topics in the regulation. The standards for licensed family day homes were closely studied and evaluated regarding the standards that were considered critical for protection of health and safety of enrolled children. These proposed standards incorporated many of those health and safety standards since an identified risk is a risk regardless of whether a program is licensed or regulated.

A Notice of Intended Regulatory Action was mailed to all voluntarily registered family day home providers, each contract agency, and interested parties. Four comments were received via the Internet from members of the public. Three were not directly related to the NOIRA or Voluntary Registration of Family Day Homes. One addressed a provider’s issues with a contracting organization when she applied in 2009.

Commenter	Comment	Agency response
Respondent # 1	“What do you think about the day home issue? I think it is controversial.” Included a link to www.moldbeach.com	The regulation has been developed to increase protection to children in the least controversial, least expensive way. Change to any regulation does bring some level of controversy since some people will want things to stay as they always have been, while others would prefer the standards be even more stringent than those proposed.
Respondent # 2	“How to get him back”	No response.
Respondent # 3	“Is this really an issue? I’d suggest that this be accessed very lightly.”	The proposed regulation has been developed to increase protection to children in the least controversial, least intrusive, least expensive way.
Respondent # 4	I feel that any changes that are made should include better supervision of subcontractors [contract agency] who are supposed to help individuals become registered. Had to do all my paperwork by myself and the agency never returns calls. Why have an agency to go through if they are not doing the work. Let individuals apply directly to DSS.”	Comment does not directly deal with the Standards for Voluntary Registration of Family Day Homes as it is a contract issue. Respondent was contacted to discuss the unique situation and to discuss changes since she had applied, and that she was able address specific concerns with the Voluntary Registration Consultant in the future to try and resolve any issues that she may have.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and

one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The authority and rights of parents are strengthened by the proposed regulation since it adds requirements for the family day home provider to inform parents about issues involving their children; such as requiring written permission for swimming and wading activities; disclose to parents whether a lifeguard, or person certified in water safety will be present and on-duty when children are in water over three feet deep; disclose whether the family day home is covered by liability insurance; the percentage of time someone else will care for their child, limits the amount of time someone else will care for an enrolled child; and to involve parents more in making decisions about the care their children receive.

The proposed regulation encourages economic self-sufficiency of families by establishing requirements that provide an improved level of out-of-home care that is safe, healthy and conducive to the needs of children. Research shows that quality child care can provide the foundation of a child's later school achievement. Because the new regulation adds training requirements for providers (and other caregivers) and requires barriers if an outside play area is within 30 feet of a hazard, this regulation could impact the costs of child care for those homes having to make significant adjustments.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
22 VAC 40-180-10 Definitions.	22 VAC 40-181-10 Definitions.		<p>The following new terms and their meanings were added in order to clarify their use in the body of the regulation: accessible, body fluids, caregiver, child day program, corrective action plan, inaccessible, nighttime care, residence, sanitized, serious injury, and time-out.</p> <p>The following words and terms and their definitions were deleted as obsolete: age groups, age of eligibility to attend school, care protection and guidance, commissioner's designee,</p>

			<p>denial of a certificate, family day home provider applicant, physician, provider assistant, requirements for providers, and USDA.</p> <p>These definitions were changed for clarity; age appropriate, certificate of registration, commissioner, contracting organization, evaluate, family day home, monitor, parent, preschool, refusal to renew a certificate of registration, registration fee, revocation of a certificate of registration, school age, substitute provider, toddler.</p>
22 VAC 40-180-20 Legal authority.		Describes the legal authority for voluntary registration of family day homes.	Removed, information is included in the forward.
	22 VAC 40-181-20.		Reserved.
22 VAC 40-181-30 Provider eligibility.	22 VAC 40-181-30. Operational Responsibilities.	Describes provider eligibility: minimum age of a provider, minimum age of an assistant, provider, assistant, and substitute able to read, write, understand and carry out requirements, locality restrictions, and provider shall not be required to be licensed.	<p>Requirement that provider and substitute be able to read, write, understand the regulation was incorporated into section 22 VAC 40-181-110 – General Qualifications for Caregivers and includes the requirement that the provider and caregivers left alone with children be able to speak, read, and write in English as necessary to carry out the responsibilities and communicate with emergency responders. Caregivers need English literacy skills in order to perform essential functions to protect children’s health and safety, such as reading warning labels on chemicals and instruction and authorization forms. English skills are also important in dealing with poison control and emergency responders throughout the Commonwealth. This is consistent with family day home standards.</p> <p>The minimum age for an assistant was moved to 22 VAC 40-181-130 - Qualifications for assistants and raised the minimum age of an assistant to 16. These changes strengthen the protections offered to children. The requirement that a family day provider shall not be required to be licensed was deleted from the promulgated regulation but will be included in guidance.</p>
	22 VAC 40-181-30. Operational		Added requirements that the provider is responsible for ensuring compliance

	Responsibilities.		with standards, terms of the certificate, and relevant federal, state, or local laws, and other applicable regulations, including Background Checks for Child Welfare Agencies. Added requirements that the home's activities, services, and facilities are conducive to welfare of enrolled children; provider is responsible for the day-to-day operation; provider is not to engage in misleading advertisement as required by § 63.2-1713 of the Code of Virginia, provider is required to disclose certain information to parents, and to post the certificate of registration and Information to Parents Statements. These requirements were added to clarify the duties and expectations of the provider.
22 VAC 40-180-40. Application for registration.	<p>22 VAC 40-181-50. Application for registration.</p> <p>22 VAC 40-181-40-181-110. General Qualifications for Caregivers</p> <p>22 VAC 40-181-150. Initial tuberculosis screening for caregivers and household members.</p> <p>22 VAC 40-181-160. Subsequent tuberculosis screening for caregivers and household members.</p> <p>22 VAC 40-180-170. Physical and mental health examinations for caregivers and household members.</p>	Describes the application process and documents which must be submitted for an initial application, the background check requirements, TB testing requirements, and the requirement that at the request of the contracting agency or the department a report of a physical examination by a physician be obtained if there is an indication that the safety of children may be jeopardized by a specific individual.	<p>The information regarding the application was moved to 22 VAC 40-181-50 – Application for Registration and requires that forms approved by the department be used. The application form will be revised to require applicants to “check” that they are submitting all of the background checks and health screenings required.</p> <p>Condensed the background check requirements that were listed to state the applicant/provider must meet the Background Checks for Child Welfare Agencies (22 VAC 40-181-30.)</p> <p>Deleted the out-of-date health requirements for TB testing and incorporated the requirements for a tuberculosis screening in 22 VAC 40-181-150 and 160. Requirements were changed to comply with guidance issued in 1999 by the Virginia Department of Health which recommends screening rather than skin testing. To comply with recommendations from the Virginia Department of Health, the “Report of Tuberculosis Screening” shall be completed within 30 days of application, hire, or residing in the home. The Virginia Department of Health also advised that tuberculosis is not transmitted through contact with food; therefore this portion of the requirement was deleted.</p>

			<p>Requirements dealing with the mental or physical health exam if requested were moved to 22 VAC 40-170.</p> <p>Sub-dividing the information into different sections was done for clarity and will allow guidance to be developed for each section.</p> <p>Deleted standards requiring provider to indicate preference as to whether they are interested in participating in USDA food program and whether the provider is able to serve as a substitute for other providers as this information can be included on the application form as is current practice.</p>
	22 VAC 40-181-40. Capacity.		<p>Sets forth the capacity requirements and that all children under the provider's supervision and care count in capacity with the exception of the provider's children and any children that reside in the home. This was added for clarity since the existing regulation only states that provider shall not exceed the maximum capacity allowed by law but did not provide information on the number of children, or children excluded from capacity, and the only mention of the number of children allowed was not in the regulation but on the Health and Safety Checklist.</p>
	22 VAC 40-181-50. Application for registration.		<p>Adds requirements that application be on prescribed forms; that providers will be notified within 15 days of any incomplete portions of the application, and that application must be completed within 45 days of such notification or it will be returned. This change is consistent with General Procedures for other programs regulated by the Division of Licensing Programs and helps to ensure that background checks and TB screenings do not expire prior to an application being completed thereby expediting the application process and reducing any additional costs a provider may incur by having to repeat background checks or TB screenings.</p>
22 VAC 40-180-50. Registration fees.	22 VAC 40-181-60. Registration fees.	Schedule of fees that may be charged by contracting agencies.	<p>Deletes requirements that checks or money orders be sent to contracting agency because each has individual policies regarding which forms of payment are accepted (certified check,</p>

			<p>check, money order) and this information is included in application packets available from the contract agency or the department's website. Deletes option to charge a fee if a phone number is changed as this is not printed on the certificate, and raises from \$10 to \$20 the fee charged if a second inspection is required to ensure that violations have been corrected. The fee was raised in the Contract Organization regulation due to cost of living increases since 1993. There are few violations where compliance can only be determined by a second inspection so this should not pose a hardship to providers since additional guidance information on achieving compliance will be available once the proposed regulation is promulgated.</p>
<p>22 VAC 40-180-60. Issuance of a certificate of registration.</p>	<p>22 VAC 40-181-70. Issuance of a certificate of registration.</p> <p>22 VAC 40-181-100. Denials, revocations, refusal to renew and provider appeals procedures.</p>	<p>Sets forth the procedures for issuing a certificate of registration and notification requirements if a provider changes location during the term of the certificate. Requires that any provider that has had a certificate of registration denied, revoked or refused renewal wait six months prior to becoming eligible for registration unless the waiting period is waived by the commissioner.</p>	<p>Changed the amount of time a provider had to notify the contract agency or the department that they had moved to a new location from 14 days to 7 days. This is necessary to ensure the safety of children in care since the certificate is not transferable. Establishes a "move application" to be used whenever a provider moves to a new location and plans to continue to be voluntarily registered. This change is to allow a provider to have a move inspection but not require new background checks simply because the provider changed location. This is consistent with licensed family day homes as the background checks do not need to be repeated until 3 years has elapsed or a provider files a new application for a change in status, e.g. to operate a center.</p> <p>The proposed regulation sets a 45-day time frame for the new location to be in compliance with applicable standards or the file will be closed. This increases the protections to children and parents.</p> <p>Deleted "provider not claim in advertising to be registered unless a certificate is currently in effect." This is unnecessary since 22 VAC 181-30 – Operational responsibilities prohibits false or misleading advertisements.</p> <p>Waiting period requirements were</p>

			moved to 22 VAC 40-181-100 for clarity.
22 VAC 40-180-70. Renewal of a certificate of registration.	22 VAC 40-181-80. Renewal of a certificate of registration.	Renewal requirements.	Added the requirement that a home inspection must be completed prior to issuance of a renewal certificate. This is to confirm continued compliance with the standards and is current practice.
22 VAC 40-180-80. Denials, revocations, refusals to renew, and provider appeals.	22 VAC 40-181-100. Denials, revocations, refusals to renew, and provider appeals procedures.	Sets forth reasons to deny, revoke, or refuse renewal or a certificate of registration and the provider's appeal procedures.	<p>Re-worded A. 1 that a provider's certificate may be denied, revoked or refused renewal for failure to demonstrate or maintain compliance with the standards or for violations of the provisions of the Code. Re-worded for clarity. Added that waiting period to re-apply could be waived by the commissioner. (Moved from 22 VAC 40-180 -60.)</p> <p>Deleted the contract agency review committee as all recommendations to deny, revoke or refuse renewal are forwarded to the Division of Licensing Programs for review and, if necessary, forwarded to the Division's enforcement committee to ensure that standards are enforced consistently throughout the Commonwealth. This is consistent with current practice since the Contracting Organizations regulation had deleted this requirement as burdensome and an unnecessary step in the appeals process. It is not required by the Administrative Process Act that voluntarily registered providers have an additional layer of appeals that is not afforded to any other child day program. Changed the stipulation that a provider may request a hearing in writing within 15 calendar days after receipt to that the provider shall submit any appeal within 15 days of receipt of the notice. This change is to be consistent with other programs regulated by the Division and in accordance with the Administrative Process Act (§ 2.2-4000 of the Code of Virginia.) This information is provided with each letter notifying the provider that the department intends to take action against the certificate. Additional information on the appeals process, while not promulgated in this regulation, will be included in guidance.</p> <p>Deleted the requirement that providers whose certificate is revoked, etc. notify</p>

			parents of enrolled children within 10 days from receipt of final order as unenforceable. There is no authority to go into a private home that is not subject to licensure once the final order has been issued.
	22 VAC 40-181-90. Complaint investigations.		Added to inform providers that contracting organizations and the department have the responsibility to investigate complaints pursuant to § 63.2-1704 of the Code of Virginia. Language is consistent with General Procedures for all other licensed programs and consistent with current practice.
22 VAC 40-180-90. Provider reporting requirements.	22 VAC 40-181-550. Reports to the contracting organization or department. 22 VAC 40-181-560. Reports of suspected case of child abuse or neglect.	Details provider reporting requirements as making reports of suspected case of child abuse or neglect and the following incidents: lost children when necessary to seek assistance from law enforcement, injury that requires admission to a hospital, and death of a child. Also includes requirement to report if damage occurs to the provider's home that affects compliance, occurrence of a reportable disease, termination of all care by provider and decision to surrender a certificate.	Moved requirement to report suspected cases of child abuse and neglect to 22 VAC 40-181-560. Deleted the toll-free telephone number from promulgated regulation since number could change and this information can be provided in guidance. Moved other incident reporting to 22 VAC 40-181-550 and changed time frame from "next working day" to "not later than 24 hours" for incidents involving lost children, "any serious injury" as many serious injuries may require outside medical intervention but not require admission to a hospital, and the death of a child. Changed reporting requirement time frame to within 24 hours or by the next working day for damage to the provider's home, termination of family day care by the provider, and the provider's decision to surrender a certificate. Deleted the requirement to report reportable diseases to the contract agency as these, if they occur, would only need to be reported to the local health department due to confidentiality of information. Voluntarily registered family day homes are not subject to § 32.1-37 of the Code of Virginia requiring licensed programs to report outbreaks of communicable diseases though this information will be included in guidance encouraging providers to voluntarily report outbreaks.
22 VAC 40-180-100.	22 VAC 40-181-720 General	Requirements for provider records to include they are	Requirements for provider records to include they are open for inspection by

<p>Provider record requirements.</p>	<p>Recordkeeping. 22 VAC 40-181-730. Children's records.</p>	<p>open for inspection by contract agency and the department and contents of the children's records. Also included are requirements that emergency contact information be made available to physician, hospital, or emergency care unit in the event of a child's illness or injury, and that records and information pertaining to individual children and their families shall not be disclosed without written permission except to contract agency staff and department representatives in the course of their duties. Lastly, this section required providers to maintain signed receipt from parents that they received the Information to Parents Statement.</p>	<p>contract agency and the department and specifies the information that shall be included in each child's record. Also included are requirements that emergency contact information be made available to a physician, hospital, or emergency care unit in the event of a child's illness or injury, and that records and information pertaining to individual children and their families shall not be disclosed without written permission except to contract agency staff and department representatives in the course of their duties. Lastly, this section required providers to maintain signed acknowledgment from parents that they received the Information to Parents Statement. Signed acknowledgment of the Information to Parents was moved to 22 VAC 40-181-730 – "Children's records" along with information that shall be maintained in each child's record such as, but not limited to, child's name and date of birth, contact information for parents, employment information, emergency contact, medical information, and agreements between the parent and provider.</p> <p>To ensure children's safety and ensure compliance with Code requirements the following requirements were added: proof of a child's identity and age and the names and addresses of previous child day programs and schools; written authorization for prescription or non-prescription medication to be administered to an enrolled child which ensures parents have the right to present a written objection to provision of medical treatment on religious or other grounds. Also strengthens protection to children by requiring written permission for swimming and wading activities; documenting parental review of emergency contact information at least annually; notification to parents of pets or animals in the home; and disclosing to parents the amount of time that an adult assistant or substitute provider is scheduled to care for children.</p> <p>Additional changes include the responsibility of the day care provider</p>
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			to notify parents of the following: the home's medication administration policy, whether the family day has liability insurance in effect as required by § 63.2-1809.1 of the Code of Virginia; policies for the provision of food; behavior guidance policies; and policies for termination of child care. These are included to strengthen the protections to children and allow parents to make informed choices regarding child care.
22 VAC 40-180-110. Staffing requirements.	22 VAC 40-181-40. Capacity.	Required providers not exceed the maximum capacity allowed by law and set forth adult-to-child ratios shall be the same as those in licensed day homes effective November 1, 1993.	Information regarding capacity was moved to 22 VAC 40-181-40 and the proposed regulation is clear, concise, and easily understood by stating the number of children that may be in care at any one time and which children may be excluded from the capacity by law. Information on adult-to-child ratios was confusing and difficult to determine in mixed age groups so this section was deleted and replaced with information on the point system in 22 VAC 40-181-480. Licensed family day home regulations effective in 7/10 also deleted the information on ratios and only the point system is used. This will ensure consistency in both licensed and regulated homes and ensure adequate supervision since children in family day homes are usually in mixed age groups, so for clarity only the point system will be used.
22 VAC 40-180-120. Health and Safety Checklist.	22 VAC 40-181-50. Application for registration. 22 VAC 40-181-80. Renewal of a certificate of registration. 22 VAC 40-181-10. Definitions. 22 VAC 40-181-60. Registration fees. 22 VAC 40-181-90. Complaint investigations.	Established that a health and safety checklist be completed by providers who apply for voluntary registration and that it should be a self-review and an assessment tool for applicants and providers, as well as an evaluation method used by contracting agencies in determining compliance. Section required provider complete a corrective action plan for areas of non-compliance and required indoor running water, indoor bathrooms and access to a working telephone.	Each requirement was moved into the appropriate section in the proposed regulation. Health and safety checklist was moved to 22 VAC 40-181-50 and 22 VAC 40-181-80 states that it must be submitted with renewal applications. Corrective action plans are addressed in 22 VAC 40-181-10 (definitions) and 22 VAC 40-181-60 (registration fees) if compliance needs to be verified by a subsequent inspection, and again in 22 VAC 40-181-90 which deals with corrective action plans developed as the result of a complaint investigation. Language requiring the provider sign the corrective action plan was deleted as current practice allows the provider

	<p>22 VAC 40-181-310. Bathrooms.</p> <p>22 VAC 40-181-320. Water supply.</p> <p>22 VAC 40-181-300. Telephone.</p>		<p>to refuse to develop a plan or to sign a plan.</p> <p>Running water and indoor bathrooms were moved to 22 VAC 40-181-310 which strengthened the requirements to include a working toilet and sink and 22 VAC 40-181-320 which requires indoor running water. For infection control purposes, the proposed regulation requires an ample supply of hot and cold water available for hand washing.</p> <p>22 VAC 40-181-300 was strengthened to require that a telephone be available, operable for incoming and outgoing calls and accessible to a caregiver at all times during the family day home's hours of operation.</p> <p>The requirements were placed in different sections for clarity and included additional elements to strengthen protections to children.</p>
	<p>22 VAC 40-181-110. General qualifications for caregivers.</p>	<p>Current requirements only set the minimum age for caregivers and that caregivers be able to read, write, understand, and carry out the responsibilities in the Requirements for Providers.</p> <p>The current regulation requires "information certifying that those in contact with children do not have a criminal background" shall be submitted with an application. Attachments will include a criminal records check, as specified in § 63.1-198.1 of the Code of Virginia, Child Protective Services Central Registry Clearance and sworn disclosure statement for the provider applicant, assistant and substitute provider and any adults residing in the home.</p>	<p>The proposed regulation establishes general requirements for all caregivers (provider, assistants, and substitute providers) to be of good character and reputation, meet the requirements of the Background Check regulation, be physically and mentally capable of carrying out job responsibilities, and for the safety of children, requires any person left alone with children, regardless of position, to be able to speak, read and write in English. This is necessary to ensure that those left alone with children can read medication instructions, warning labels, parental instructions and communicate with emergency personnel or representatives of the department. This is consistent with standards for licensed family day homes and is to improve the level of safety offered to children in care. The English requirement is only applicable to caregivers left alone with children.</p> <p>Voluntarily registered family day homes are included in the definition of a child welfare agency in the Code of Virginia, and are therefore subject to the "Background Checks for Child Welfare Agencies" regulation. The existing regulation requested information from</p>

			<p>the provider that “those in contact with children do not have a criminal background.” This language exceeds the barrier crimes statute. Deletes obsolete Code of Virginia references.</p> <p>Qualifications were moved to a single section for clarity.</p>
	<p>22 VAC 40-181-120. Qualifications and requirements for providers and substitute providers.</p>	<p>Provider and substitute provider must be 18 years of age or older and able to read, write, understand and carryout the responsibilities in the Requirements for Providers. Health and safety checklist also included the statement, “My physical and mental condition are such that I am able to care for children.”</p> <p>“Substitute provider” means a provider who meets the Requirements for Providers and who is readily available to provide substitute child care in a registered provider’s home or in the substitute provider’s home.”</p>	<p>This section was added to clearly state the minimum age of providers and substitute providers and establishes requirements that anyone applying for voluntary registration six months after the effective date of the regulation shall have a current CPR certification, as appropriate to the ages of children in care, and current First Aid certification, with the exception of registered or licensed practical nurses with a current license from the Board of Nursing. This is to ensure that providers and substitute providers are equipped to deal with emergencies. Currently those providers who receive subsidy funds must meet the requirements for current CPR and first aid certifications.</p> <p>To ensure continuity of care and that the provider has the primary responsibility for providing care (according to the definition of “provider”), the use of a substitute is limited to 240 hours per calendar year, unless otherwise approved by the contract agency and the department. A requirement is added for the substitute provider to record and sign the time of arrivals and departures for each day worked.</p> <p>The proposed regulation requires the substitute provider to provide care in the home of the provider. This is to ensure that the home has been inspected and meets the home standards thereby ensuring the protection of children and gives the parents the assurance that the home has been inspected and meets certain standards. It is not necessary for the contract organization to <u>approve</u> the substitute provider since the provider must ensure compliance with the “Background Checks for Child Welfare Agencies.”</p>
	22 VAC 40-181-	“Provider assistant” means	To increase protections for children, the

	<p>130. Qualifications and requirements for assistants.</p>	<p>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 in the care, protection, and guidance.</p> <p>Health and safety checklist has a statement "I never leave children alone with an assistant younger than 18 years of age. I make sure children are properly supervised at all times."</p>	<p>minimum age of an assistant is raised to 16 years of age. Because assistants meet the definition of a "caregiver" and count in determining the total number of caregivers needed, they are included in the general requirements for caregivers.</p> <p>To protect children, requirements were added that an assistant under the age of 18 years of age must work under the direct supervision of the provider or substitute provider. To ensure continuity of care and that the provider has the primary responsibility for providing care (according to the definition of "provider"), an assistant 18 years of age or older may not be left alone with children for more than two hours a day. However, if the assistant meets the requirements for a substitute provider, that individual may act as a substitute when the provider is absent from the home for more than two hours.</p>
	<p>22 VAC 40-181-140. Household members.</p>	<p>Adult household members subject to TB testing and background checks</p>	<p>Requirement changed to ensure that individuals that reside in the home be of good character and reputation and display behavior that demonstrates emotional stability, such that the behavior does not present a risk to enrolled children. Family day homes are unique in that children are regularly exposed to household members who may not be associated with caring for children. The provider must ensure the safety of the physical environment and also that those residing in the home do not pose a risk to others. This requirement is consistent with licensed family day homes.</p> <p>Voluntarily registered family day homes are included in the definition of a child welfare agency in the Code of Virginia therefore are subject the "Background Checks for Child Welfare Agencies" regulation. The background checks regulation requires individuals 14 years of age and older submit a Child Protective Services Search of the Central Registry clearance. Requirement added to the regulation for clarity.</p>
	<p>22 VAC 40-181-170. Physical</p>	<p>"At the request of the contracting organization or</p>	<p>Strengthened requirement so that the provider as well as the department's</p>

	and mental health examinations for caregivers and household members.	the Department of Social Services, a report of examination by a physician shall be obtained when there is an indication that the safety of children in care may be jeopardized by the physical or mental health of a specific individual.”	representative may request the examination and further strengthens the protections to children and families by requiring that any caregiver or household member who is determined by a licensed physician or mental health professional to show any indication of a condition that may endanger children in care or prevent the performance of duties be immediately removed from contact with children and food until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.
	22 VAC 40-181-180. Orientation.		Adds requirement for an orientation for a substitute provider and/or assistant by the end of their first week. Orientation shall cover topics such as, but not limited to; job responsibilities, parental notifications, the emergency procedures, location of emergency numbers and first aid supplies, confidentiality requirements and mandated reporting responsibilities. Provider must maintain documentation of any orientation. This is to ensure that other caregivers are familiar with their duties and expectations and the location of emergency supplies.
	22 VAC 40-181-190. Training.		The proposed regulation adds the requirement that in addition to the CPR and first aid certifications, caregivers shall obtain a minimum of 8 hours of training every two years. Research, including that of the National Scientific Council on the Developing Child, indicates that quality early education programs that include skilled caregivers can enhance a child’s development and help provide a firm foundation for later school achievement. The current regulation does not require any training for registered providers or caregivers however; many providers who are receiving subsidy funds or participating in the UDSA food program are already meeting or exceeding this requirement. Requiring all caregivers to obtain training related to child care or the business of child care raises the level of professionalism and increases protections to children.
	22 VAC 40-181-200.		To comply with § 54.1-3408 O.of the Code of Virginia, the proposed

	Medication administration training.		regulation adds requirements for Board of Nursing-approved medication administration training for caregivers in family day homes who choose to administer prescription medication.
	22 VAC 40-181-210. Documentation of education and training.		Requirements added for documentation of each caregiver’s applicable certification, orientation, bi-annual training, and medication administration training. Such documentation shall include name of caregiver, name of training session, date and number of hours, name of organization sponsoring training and the name of the trainer. Requires providers to submit this information with a renewal application.
	22 VAC 40-181-220. Home maintenance.	<p>Health and safety checklist required providers to safeguard the outdoor play area for open and obvious hazards, such as, standing water, animal fecal material, construction materials, poison ivy, dangerous lawn and garden tools, and traffic.</p> <p>Health and safety checklist, “My home is in good repair, with no peeling lead paint.”</p> <p>“I have taken steps to safeguard my home from open and obvious household hazards, such as loose carpeting, unmarked glass doors, and small items that could be swallowed.”</p> <p>Cribs, playpens and safety gates that meet current Consumer Product Safety Commission (CPSC) guidelines to be used per Health and safety checklist.</p>	<p>To protect children, requirements for home safety have been incorporated in to proposed regulation, expanded, and divided into separate sections. Areas and furnishings of the family day home, inside and outside, must be maintained in a clean, safe, and operable condition. Expands unsafe conditions to include presence of poisonous plants, tripping hazards, unstable heavy furniture or equipment that a child could pull down, splintered, cracked or otherwise deteriorating wood, chipped or peeling paint, visible cracks, bending, warping, rusting, or breakage of any equipment used by or accessible to children, head entrapment hazards, and protruding nails, bolts or other components that could entangle or snag skin.</p> <p>Expands requirement to not allow any equipment, materials, or furnishings to be used if recalled or identified by the CPSC as being “hazardous.”</p>
	22 VAC 40-181-230. Hanging, suffocation, and strangulation hazards.	<p>Health and safety checklist required crib slats be no more than 2 3/8 inches apart.</p> <p>Health and safety checklist “I have taken steps to safeguard my home from</p>	<p>For children’s safety, added that items such as window blinds, curtain cords, appliance cords, and ropes be kept out of reach and defined small objects as those less than 1 ¼ inches in diameter and less than two inches in length shall be kept out of reach of children under three years of age. Proposed</p>

		<p>open and obvious hazards, such as loose carpeting, unmarked glass doors, and small items that can be swallowed.”</p>	<p>regulation also prohibits tying items across the top or corner of a crib or playpen or hanging toys from the sides with strings or cords once a child begins to push up on hands and knees or is five months of age, whichever comes first. The proposed regulation will require providers to remove hood or neck drawstrings from a child’s clothing prior to child using any climbing equipment and that latex gloves, balloons and empty plastic bags be kept inaccessible to children under five years of age.</p> <p>The items are also identified as hanging, suffocation, and strangulation hazards in licensed family day homes and parents have the right to expect that children be protected from identified hazards in voluntarily registered, as well as licensed, family day homes.</p>
	<p>22 VAC 40-181-240. Drowning hazards.</p>	<p>Health and safety checklist required that provider protect outdoor play area from open and obvious hazards and stated that fencing or other barriers might be needed when play area is next to a body of water.</p>	<p>For children’s safety, requirements added to prevent children’s access to above-ground pools. Play areas with 30 feet of unfenced in-ground pools, swimming and wading pools, ponds, and fountains must be surrounded by a non-climbable barrier such as a fence (current providers have one year to comply). Portable wading pools must be emptied, cleaned and stored when not in use. Children who are not potty trained shall not use portable wading pools. Bathtubs, buckets, and other containers of liquid that are accessible to children must be emptied immediately after use in order to eliminate the danger of drowning, particularly for a small child whose head is heavier than his body. Newly added requirements intended to prevent drowning include a prohibition against children’s use of hot tubs, spas, and whirlpools and requirement that these items be covered with safety covers if they are located in an area accessible to children.</p> <p>These also identified as drowning hazards in licensed family day homes and parents have the right to expect that children be protected from identified hazards in voluntarily registered, as well as licensed, family</p>

	<p>22 VAC 40-181-250. Firearms and ammunition.</p>	<p>Health and safety checklist, "I keep firearms unloaded, apart for ammunition, and in a locked place."</p>	<p>day homes.</p> <p>Requirements related to storage of firearms and ammunition has been revised to require storage in locked container, compartment, or cabinet rather than in a "locked place." This change addressed the issue that arose when "place" was an area that was reportedly off-limits to children in care. Firearms were stored in bedside tables, chests, on top of furniture and in closets that made them potentially accessible to children in the event the room was unlocked or they were allowed access with the provider. Clarified the definition of a firearm to include "every type and purpose" and that ammunition must be stored in a locked container, compartment, or cabinet during the family day home's hours of operation. Proposed regulation also requires that if a key is used to lock the container, compartment, or cabinet, the key shall be inaccessible to children.</p> <p>Family day homes are unique in that they are one of the few child care settings where firearms could potentially be present. The proposed firearm standards are consistent with those for licensed family day homes and parents have the right to expect that children be protected from firearms in voluntarily registered, as well as licensed, family day homes.</p>
	<p>22 VAC 40-181-260. Poisonous materials.</p>	<p>Health and safety checklist, "I keep medications and toxic household products in areas inaccessible to children and away from food products."</p>	<p>To increase protections to children, the proposed regulation expands the requirement to include potentially poisonous substances, materials, and supplies, such as but not limited to, cleaning supplies, disinfectants, deodorizers, plant care chemicals, pesticides, and petroleum distillates and that they must be stored away from food and in areas inaccessible to children. Exception is for hand sanitizers, liquid hand soaps, and sunscreen labeled "keep out of reach of children" do not need to be kept inaccessible to children five years of age or older provided that the products are used under adult supervision and the labels do not contain any other warning words to indicate that the product is toxic.</p>

	<p>22 VAC 40-181-270. Sharp objects.</p>	<p>Health and safety checklist, "I keep dangerous objects such as knives, out of the reach of children unless under supervision, e.g., when children are using these objects in planned activities."</p>	<p>To protect children the proposed regulation expands the requirement by requiring that sharp kitchen utensils and "other sharp objects" shall be inaccessible to children unless being used by the caregiver or with children under close supervision.</p>
	<p>22 VAC 40-181-280. Machinery.</p>	<p>Health and safety checklist required provider to take steps to protect the outdoor play area used by children from open and obvious hazards such as "dangerous lawn and garden tools."</p>	<p>To protect children, the requirement was added that "machinery in operation such as lawnmowers and power tools shall be inaccessible to children in care. Machinery shall be stored so that it is inaccessible to children or that children may not engage the machinery." A child in a licensed family day home was killed when struck by a riding lawn mower. This is consistent with the requirement for this type of hazard in licensed family day homes.</p>
	<p>22 VAC 40-181-290. Fire safety and shock prevention.</p>	<p>Health and safety checklist requirements: "Electrical outlets are child-proof in all areas accessible to children. Multi-plug adapters that are used have fuse safety features." "My electrical panel is easily accessible to adults, free of loose connections and fraying wiring, and has no missing fuses. There is no frayed or uninsulated wiring anywhere in the house." "I ensure that small appliances are not accessible to children, unless under supervision, e.g., when children are using these appliances in planned activities." "I place barriers around space heaters, fireplaces, wood stoves and fans when in use." "I will permit an inspection of my home by appropriate fire authorities if conditions indicate a need for approval and the contract agency or the Virginia Department of Social Services requests it."</p>	<p>For clarity fire safety and shock prevention was incorporated into one area. Changed the requirement from "child-proof" to a more appropriate descriptive of "child-resistant" protective covers be used on all unused electrical outlets and surge protectors accessible to children under the age of five. To strengthen protection to children, clarified that no electrical device accessible to children shall be placed so that it could be plugged into an electrical outlet while in contact with a water source. Strengthened the requirements for barriers around space heaters, etc. to include radiators, oil and wood stoves, floor furnaces, fireplaces, portable electrical heaters have a barrier and "be located at least three feet from combustible materials." Prohibits the use of unvented fuel burning heaters when children are in care due to the danger of carbon monoxide poisoning. The proposed regulation further strengthens the protections to children by requiring that flammable and combustible materials such as matches, lighters, lighter fluid, aerosol cans, alcohol, etc. shall be stored in areas inaccessible to children. The regulation has been revised to require that open and obvious hazards</p>

			<p>“including the absence of fire extinguishers or smoke detectors” be reported to the local fire officials in accordance with the 2000 Memorandum of Agreement between the Department of Social Services and the Department of Housing and Community Development and according to a guidance document issued in 2002. The changes are consistent with the fire safety and shock prevention requirements for licensed family day homes.</p>
<p>22 VAC 40-180-120. Health and safety checklist criteria.</p>	<p>22 VAC 181-300. Telephone.</p>	<p>Requirement for working telephone or that the caregiver demonstrate that one is quickly and easily accessible.</p>	<p>To protect children in care by ensuring caregivers can always contact emergency responders, the proposed regulation strengthened the requirements to require a telephone be available and operable for incoming and outgoing calls. To allow parents to contact providers, the telephone number must be given to parents and the department’s representative in writing and a requirement was added for notification to parents within 24 hours of a change and to the department’s representative within 48 hours of a change.</p>
<p>22 VAC 40-18-120. Health and safety checklist criteria.</p>	<p>22 VAC 40-181-310. Bathrooms.</p>	<p>Required indoor bathroom equipped with a flush toilet and sink with running water.</p> <p>Health and safety checklist required indoor running water and bathrooms and that bathrooms be equipped with working toilets, sinks, tissues, soap, and disposable or individually assigned towels.</p>	<p>For infection control purposes the proposed regulation no longer allows individually assigned towels because there is no way to control children from using each others’ towels. For clarification, requirements were combined into one section and the bathroom must contain “toilet” tissue and “liquid” soaps.</p>
<p>22 VAC 40-180-120. Health and safety criteria.</p>	<p>22 VAC 40-181-320. Water supply.</p>	<p>Indoor running water.</p>	<p>For infection control purposes, added a requirement for the home to have an ample supply of hot and cold water available to children and caregivers for hand washing.</p> <p>To reduce the possibility of contamination, infection or disease a requirement was added that when there are open and obvious signs of water or sewage system problems or back-up the system must be inspected and approved by local health officials or private laboratory and the situation corrected within the time frame established by the local public utility or</p>

			Department of Health.
	22 VAC 40-181-330. Insects and rodents.	Health and safety checklist, "My home is free from insect and rodent infestation."	To strengthen protection to children and the public, added requirement that no home shall maintain any receptacle or pool containing water in such condition that insects breeding therein may become a menace to public health.
	22 VAC 40-181-340. Space.		The proposed regulation requires the home to have adequate space for free movement and active play indoors and out. Guidance will be provided regarding compliance determination for adequate space as is defined in licensed family day home standards. Space in which children can freely move for exercise and development of physical skills is necessary to the well-being of children. Indoor crowding has been shown to be associated with an increased risk of upper respiratory infections. Conflicts between children and behavior problems are more likely to occur in crowded environments as well as the risk for a child to be injured during activities. Adequate outdoor space for play is necessary for the development of gross motor (large muscle) skills.
	22 VAC 40-181-350. Heating and cooling.	Health and safety checklist requires that rooms used by children be kept at least 68° F during heating season and that barriers be placed around fans when in use.	Requirements were changed to require rooms to be maintained no lower than 65° F so as not to be more restrictive than licensed family day homes. The proposed regulation added the requirement for fans or other cooling systems to be used when the temperature of inside areas occupied by children exceeds 80° F.
	22 VAC 40-181-360. Lighting.	Health and safety checklist requires rooms used by children to be well lighted, and exits, hallways and stairways to be well lighted.	Clarified that lighting may be natural or electric. It is important that there be adequate light for children to safely see and for caregivers to adequately supervise children. Inadequate artificial lighting has been linked to eyestrain, headache, and non-specific symptoms of illness.
	22 VAC 40-181-370. Stairs.	Health and safety checklist requires protective barriers including, but not limited to, safety gates, be placed on stairways that are accessible to children.	Since the definition of "children" includes children up to 13 years of age, the proposed regulation changes the requirements to "children under two years of age and children over two years of age who are not developmentally ready to climb or descend stairs without supervision shall not have access to stairs" and children over the age of 3 do not have access to

			<p>stairs with three or more risers that do not have protective barriers or guardrails on each side which is consistent with licensed family day homes. Protective barriers or guardrails on sides of stairs shall be constructed to prevent a child from climbing over, crawling, or falling through or become entrapped. Proposed regulation strengthens protection to children by requiring safety gates used as protective barriers be properly installed.</p>
	<p>22 VAC 40-181-380. Doors and windows.</p>	<p>Health and safety checklist required providers to safeguard against open and obvious hazards including “unmarked glass doors” and to use screened doors and window for ventilation.</p>	<p>The proposed regulation clarifies that “unmarked glass doors” means doors with clear glass panels that reach within 18 inches of the floor and that they shall be clearly marked with decorative objects such as pictures, art work, or decals at eye level of children in care. Many providers have confused this requirement with marking exit doors with an overhead “exit” sign.</p> <p>It also strengthens the requirement that doors and windows used for ventilation be securely screened. This is important to prevent insects or rodents which may bite, sting, or carry disease from getting into the home.</p>
	<p>22 VAC 40-181-390. Smoking and prohibited substances.</p>	<p>Health and safety checklist “I agree to provide a smoke-free environment in rooms accessible to children while children are in care.”</p> <p>“I make sure that any adult (18 years of age or older), including any adult household member, who comes in contact with children or will provide ongoing care to children has a tuberculosis (TB) test, background check; and I will not allow them to use alcohol or illegal drugs while children are in care.</p>	<p>The proposed regulation was expanded to require that no person smoke indoors while children are in care, in a vehicle when children are being transported, or outdoors in an area occupied by children. This was increased to protect children from second-hand smoke and residual toxins from smoking that can trigger allergies and asthma.</p> <p>To ensure the safety of children, requirements were added that no caregiver be under the influence of medication that impairs functioning, alcohol or illegal drugs.</p>
	<p>22 VAC 40-181-400. Play equipment and materials.</p>		<p>The proposed regulation adds requirements for the voluntarily registered family day home to provide a sufficient quantity and variety of play materials and equipment that is appropriate to the age, size, ability, and interest of the child and accessible to the child. Strengthens protection to</p>

			<p>children by requiring the equipment and materials be clean, non-toxic, and free from hazards such as lead paint, sharp edges, loose parts and rust and that toys mouthed by children be cleaned and sanitized daily to reduce the spread of disease. Having a sufficient quantity of play materials and equipment reduces competition and frustration. Children need a variety of age-appropriate and developmentally-appropriate toys and materials that they can play with at will to stimulate their imaginations and allow them to develop self-help skills. Play equipment and materials that are not appropriate to the child's age, size, and ability, may be too difficult for a child and he will likely lose confidence and give up instead of returning to an activity.</p>
	<p>22 VAC 40-181-410. Indoor slides and climbing equipment.</p>		<p>For children's safety a requirement was added that indoor slides and climbing equipment over 18 inches high must not be over a bare floor.</p>
	<p>22 VAC 40-181-420. Outdoor play areas and equipment.</p>	<p>Health and safety checklist, "I have taken steps to safeguard the outdoor play area used by children in my home from open and obvious hazards such as standing water, animal fecal material, construction materials, poison ivy, dangerous lawn and garden tools, and traffic. (Fencing or other barriers might be needed when play area is next to a body of water or busy street)."</p>	<p>For children's safety and based on recommendations from the U.S. Consumer Product Safety Commission, requirements were added that a barrier surround outdoor play areas located within 30 feet of hazards. (Current providers have one year to comply with the requirement.) The proposed regulation requires that a nonclimbable barrier at least 4 feet high such as a fence or impenetrable hedge surround play areas located within 30 feet of hazards such as streets with speed limits in excess of 25 mph or with heavy traffic, or railroad tracks. The purpose of this standard is to prevent children from leaving the play area and being able to easily access a street or other hazard.</p> <p>Additionally, the highest climbing rung or platform on outdoor climbing equipment shall not exceed six feet for school age children and four feet for preschool children. Stationary outdoor equipment must not be installed over concrete, asphalt, or other hard surface and must be placed at least six feet from other play structures or obstacles. This requirement increases the protections for children and reduces the</p>

			<p>risk of a serious injury.</p> <p>The requirement is added that sandboxes be covered when not in use. Uncovered sand is subject to contamination and transmission of disease from animal feces and insects breeding in sandboxes.</p> <p>Requirement added prohibiting trampolines from being used during the hours that children are in care. Trampolines pose serious safety hazards such as falling or jumping off of the trampoline, falling on the trampoline springs or frame, colliding with another person on the trampoline and landing improperly while jumping or doing stunts on the trampoline.</p>
	22 VAC 40-181-430. Rest areas.	Health and safety checklist, "I allow only one child to occupy a crib or a playpen at a time."	<p>The proposed regulation strengthened the requirements so that each child must be provided an individual crib, play pen, cot, rest mat, bed, sofa or other piece of furniture for resting and napping and they must be placed at least 3 feet from heat-producing appliances and at least 12 inches from each other. This standard is to prevent the spread of disease due to children sleeping together or in close proximity to each other and to reduce the risk of fire or injury by rest areas being too close to a heat source.</p> <p>To allow children to rest comfortably, proposed standard will require rest mats to have at least one inch of cushioning and requires if children use furniture used for other purposes or by family members, that the provider must cover it in clean linen.</p> <p>Since rest mats are placed on the floor added requirement that they be cleaned and sanitized at least weekly.</p>
	22 VAC 40-181-440. Crib/playpens used for napping and daytime use.	Health and safety checklist, "Cribs or playpens that meet the current Consumer Product Safety Commission (CPSC) guidelines for cribs are used for children under 18 months of age. The service side of an occupied crib is accessible. Crib slats are no more than 2 3/8 inches apart."	<p>Proposed requirement changes the age to 12 months and for children over 12 months of age who are not developmentally ready to sleep on a cot, rest mat or bed. This is consistent with licensed family day homes and directs that infants have additional play space and not be confined to cribs.</p> <p>Proposed regulation strengthens the protections to children by prohibiting</p>

		<p>use of cribs and playpens that have been recalled; mattresses must fit snugly so that no more than 2 fingers can be inserted between the mattress and the crib, and not have end panel cutouts of a size that could cause a head entrapment. If the provider is using a mesh-side crib or playpen for both play and napping requires the provider to remove all toys, etc. prior to napping. To reduce the risk of injury, the proposed regulation requires that a crib or play pen with mesh sides have holes smaller than ¼ inch; not have any torn mesh sides, broken hinges or tears in the vinyl or fabric; have a firm floor with a secured pad that is not more than one inch thick; that the sides shall be up and fastenings secure when a child is inside; and be cleaned and sanitized each day. For the protection of children, the proposed regulation prohibits bumper pads and limits the use of mesh-sided cribs, playpens, etc. to daytime use.</p>
	<p>22 VAC 40-181-450. Linens.</p>	<p>For children’s comfort, added that cribs, cots, rest mats, and beds, when used for sleeping or napping, have a top and bottom cover if used by children other than infants; and cribs used for infants have a tight fitting bottom cover that is assigned for individual use. The proposed regulation requires that linens be clean and washed at least weekly or when soiled and that fresh linen be used if a child rests on the bed of another family member.</p> <p>To prevent suffocation, no soft bedding or toys may be used under or around infants, and children under the age of two shall not use pillows or filled comforters.</p> <p>For sanitation purposes, pillows must be assigned for individual use and covered with pillowcases.</p>
	<p>22 VAC 40-181-460. Infant and toddler equipment.</p>	<p>For clarification and for added protection to children, the proposed regulation added that “infant carrier seats, swings, strollers, feeding or activity tables and high chairs shall be used according to the manufacturer’s instructions and when occupied by a child, a safety strap shall be used and securely fastened.” The purpose of</p>

			<p>adding this standard is to reduce the risk of falls and head entrapments.</p> <p>Prohibits the use of infant walkers due to the number of injuries that have been associated with the use of walkers and there is no clear developmental benefit from their use, therefore, the American Academy of Pediatrics has recommended that they not be used in family day homes. Walkers can be dangerous because they move children around too fast and potentially into hazardous areas and even if the wheels are removed they place children in the upright position and can bring children close to objects they can pull down on themselves.</p> <p>Infants shall not be allowed to sleep in infant carrier seats. In many instances children have been left to sleep in carrier seats in lieu of being provided a crib and carrier seats have been placed on a sofa or other piece of furniture where the child can fall off or be knocked over by other children or the sleeping infant has been left on the floor where other children can step on him or fall over the carrier.</p> <p>To ensure that infants are not confined to cribs and play pens or other piece of confining equipment, the proposed regulation limits the amount of time during waking hours to 30 minutes with breaks in between (mealtimes are an exception).</p>
	<p>22 VAC 40-181-470. Supervision.</p>	<p>Health and Safety Checklist, "I never leave children alone with an assistant younger than 18 year of age. I make sure children are properly supervised at all times."</p>	<p>For the safety and protection of children, the proposed regulation strengthens the supervision requirements by adding that a caregiver be physically present on site and provide direct care and supervision of each child which includes awareness of and responsibility for including being near enough to intervene when necessary and monitoring sleeping infants by placing them within sight and hearing of a caregiver or by in-person observation at least once every 15 minutes or by using a baby monitor.</p> <p>The proposed changes also require caregivers to actively supervise each child during outdoor play to minimize</p>

			the risk of injury; protect infants from older children; and no child under five years of age, or older than five years of age that lacks the motor skills and strength to avoid accidental drowning, shall be left alone while in the bathtub.
22 VAC 40-180-110. Staffing requirements.	22 VAC 40-181-480. Determining the need for an additional caregiver.	Established that adult-to-child ratios for voluntary registration shall be the same as those for licensed family day homes effective November 1, 1993.	Information on adult-to-child ratios was confusing and difficult to determine in mixed age groups so this section was deleted and replaced with information on the point system in 22 VAC 40-181-480. Licensed family day home regulations (effective 7/10) also deleted the information on ratios and only the point system is used. This will ensure consistency in both licensed and regulated homes and ensure adequate supervision since children in family day homes are usually in mixed age groups, so for clarity only the point system will be used.
	22 VAC 40-181-490. General requirements for programs.	Health and safety checklist, "I plan for adequate rest and play for children in care." "I encourage children to participate in activities appropriate to their ages and levels of development." "I never use discipline which would demean or belittle a child and never use physical (corporal) punishment."	In order to promote the child's physical, intellectual, emotional, and social well-being and growth, the proposed regulation requires caregivers to provide needed help, comfort and support; respect personal privacy; respect differences in cultural, ethnic, and family backgrounds; encourage decision-making abilities; promote getting along; encourage independence; and use consistency in applying expectations. Strengthened the requirement from "encouraging children to participate in activities appropriate to their ages" to "caregivers shall provide age-appropriate activities which shall include: opportunities for indoor active and quiet play depending upon the ages of children in care, opportunities for outdoor play daily dependent upon the weather, ages, health of children in care more than two hours during daylight hours; opportunities for child to develop independence; and for structured as well as unstructured play." Guidance will be provided to assist caregivers in achieving compliance and to ensure consistent compliance determinations.
	22 VAC 40-181-500. Requirements for sleeping and	Health and safety checklist, "I plan for adequate rest and play for children in care."	The proposed regulation strengthens the protections to children by requiring infants be placed on their backs when sleeping or napping unless otherwise

	resting.		<p>ordered by a physician's statement. Research has shown that placing an infant on his back to sleep reduces the risk of Sudden Infant Death Syndrome (SIDS).</p> <p>The proposed regulation requires that infants, toddlers, and preschool children who fall asleep in a play space be moved to a sleeping area if the safety or comfort of the child is in question and that school age children shall be allowed to nap if needed, but shall not be forced to do so.</p>
	22 VAC 40-181-510. Television, computers, videos, and video games.		<p>The proposed regulation strengthens the protections to children by requiring that use of media be limited to programs, tapes, websites, and software that are produced for children or are suitable for children and that other activities be available during television or video viewing. It is important that children have access to games, toys, books, etc. so that they can amuse themselves if not interested in a program. Children's imaginative play is important for their social, emotional, cognitive and language development.</p>
	22 VAC 40-181-520. Behavioral guidance.	Health and safety checklist, "I never use discipline which would demean or belittle a child and never use physical (corporal) punishment."	<p>The proposed regulation strengthens the protections for children by replacing the word "discipline" which carries many meanings in our society. Adults often stop a child's misbehavior by telling them what not to do. Guiding behavior is not just about stopping an inappropriate behavior, it is about teaching and giving children the tools to begin to manage their own behavior and develop self control and allow adults to tell children what they want for them to do. One of the biggest challenges for adults who work with children is helping them to learn to interact with others in socially acceptable ways. Adults who work with children must have an understanding of child development and age-appropriate behaviors, and have reasonable expectations for a child behavior. The proposed regulation requires caregivers to use positive methods of behavior guidance to include; using fair and consistent limits; providing reasons for limits; positively worded directions; modeling and redirecting behaviors;</p>

			<p>helping children to express themselves to avoid conflicts; and arranging equipment, activities and schedules to promote desirable behaviors. Behavior guidance is most effective when it is assertive, consistent, recognizes and reinforces desired behaviors and offers logical consequences for misbehaviors.</p> <p>When time-out is used as a behavior guidance technique, the proposed regulations sets time limits based on a child's age and prohibits the use of time-out with infants and toddlers because they are too young to cognitively understand the consequence. It also limits where a child can be placed for time-out and that he must be within sight and sound of a caregiver.</p>
	<p>22 VAC 40-181-530. Forbidden actions.</p>	<p>Health and safety checklist, "I never use discipline which would demean or belittle a child and never use physical (corporal) punishment.</p>	<p>To strengthen the protections to children and their families, the proposed regulation prohibits the following actions: physical punishment including striking a child, roughly handling or shaking, biting, pinching, restricting movement, forcing a child to assume uncomfortable positions; or using exercise as a punishment. Other forbidden actions include: enclosing in a small space or a space where a child cannot free himself; punishment by other children; withholding or forcing food, water, or rest; punishment for toileting accidents, and punishment by applying unpleasant or harmful substances. The prohibited actions are considered psychologically and emotionally abusive, and can easily become physically abusive as well. Research has linked corporal punishment with negative effects in later life. To ensure that parents are also protected when selecting different types of child care this change is consistent with the standards for licensed child day centers and family day homes.</p>
	<p>22 VAC 40-181-540. Parent notifications.</p>	<p>Health and safety checklist, "I comply with § 63.2-1809.1 of the Code of Virginia by providing written notification of the fact that my family day home business is covered by liability insurance, along with the</p>	<p>To comply with the requirements of § 63.2-1809.1 of the Code of Virginia deleted the requirement that providers provide parents with the amount of liability insurance in effect and changed this to "in the amounts established by the Virginia Department of Social Services (VDSS)" and that the provider</p>

<p>22 VAC 40-180-100. Children's records.</p>		<p>amount, or that my business is not covered by liability insurance to the parents or guardians of all enrolled children. Signed acknowledgement of written notification is maintained on file for each child during the child's attendance and for 12 months after the child's last day of attendance.”</p> <p>Parents signed authorizations for use of substitute provider, their name, address and phone number and signed authorization to transport children and take children out of the immediate community.</p>	<p>must 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 and maintain a copy in the child's file.</p> <p>To strengthen authority and rights of parents, added requirements for the provider to provide daily information on the child's health, development, behavior and adjustment or needs; to notify parents when a substitute provider will be used and give prior notice when a facility will be closed; to notify parents when persistent behavioral problems are identified and what steps have been taken. Also added requirement that parents be notified immediately when a child has a head injury or serious injury that requires emergency medical or dental treatment; has any adverse reaction to medication administered; has been administered medication incorrectly; or when a child is lost, missing or has died. Added that a parent must be notified the same day whenever first aid is administered to a child; to notify parents within 24 hours if a child has been exposed to a communicable disease unless forbidden by law; except for that a life-threatening disease must be reported to the parents immediately. Strengthens the authority and rights of parents by requiring providers have written permission to take the child off the premises except in an emergency relocation, and if an emergency relocation is necessary the parents be notified of the whereabouts of the child as soon as possible.</p> <p>Lastly, to strengthen the authority of the parents and protect children, the provider shall disclose to parents the home's written medication decision regarding whether the home will administer prescription medication, administer only non-prescription medication or that no medications will be given to an enrolled child.</p>
<p>22 VAC 40-180-90. Provider reporting</p>	<p>22 VAC 40-181-550. Reports to contracting organization or</p>	<p>Provider reporting requirements are making reports of suspected case of child abuse or neglect and</p>	<p>Moved incident reporting to 22 VAC 40-181-550 and changed time frame from “next working day” to “not later than 24 hours” for incidents involving lost</p>

<p>requirements.</p>	<p>the department.</p>	<p>the following incidents: lost children when necessary to seek assistance from law enforcement, injury that requires admission to a hospital, and death of a child. Also includes requirement to report if damage occurs to the provider's home that affects compliance, occurrence of a reportable disease, termination of all care by provider and decision to surrender a certificate.</p>	<p>children, any serious injury as many serious injuries may require outside medical intervention but not require admission to a hospital, and the death of a child.</p> <p>Changed reporting requirement time frame to within 24 hours or by the next working day for damage to the provider's home, termination of family day care by the provider and the provider's decision to surrender a certificate.</p> <p>Deleted the requirement to report reportable diseases to the contract agency as these, if they occur, would only need to be reported to the Department of Health due to confidentiality of information. Voluntarily registered family day homes are not subject to § 32.1-37 of the Code of Virginia requiring licensed programs to report outbreaks of communicable diseases though this information will be included in guidance encouraging providers to voluntarily report outbreaks.</p>
<p>22 VAC 40-180-90. Provider reporting requirements.</p>	<p>22 VAC 40-181-560. Reports of suspected case of child abuse or neglect.</p>	<p>Details provider reporting requirements as making reports of suspected case of child abuse or neglect immediately when there is reason to suspect that a child has been or is being subjected to any kind of child abuse or neglect by any person.</p>	<p>Deleted the toll-free telephone number from promulgated regulation since number could change and this information can be provided in guidance.</p> <p>§ 63.2-1509 of the Code of Virginia requires paid caregivers to immediately report suspected cases of child abuse or neglect whether it occurred while the child was in care or not. Therefore the proposed regulation changed the requirement from the "provider" reporting to that the "caregiver" shall report suspected case of child abuse or neglect. Guidance will be provided regarding mandatory reporting responsibilities.</p>
	<p>22 VAC 40-181-570. Exclusion of sick children.</p>		<p>Following recommendations of the American Academy of Pediatrics, the American Public Health Association, and the Maternal and Child Health Bureau of the Health Resources and Services Administration, a list of excludable conditions such as both a fever and behavioral change; diarrhea; recurrent vomiting, or symptoms of a communicable disease are reasons to</p>

			<p>exclude a child from care. However, since voluntarily registered family day homes are small and sometimes only care for one family group, the proposed regulation requires that children must be excluded only if the provider is caring for children from more than one family group. In situations where the provider is caring for children from more than one family group, the proposed regulation strengthens protections to children and reduces the spread of disease by requiring that parents be contacted immediately and while waiting, the child be placed in a quiet area but the provider shall be accessible to respond immediately to the child if necessary. To strengthen the authority of the parents, the proposed regulation requires the provider establish written guidelines with the parent for exclusion of a sick child when there is only one family group in attendance.</p>
	<p>22 VAC 40-181-580. Handwashing.</p>	<p>Health and safety checklist, "My hands and children's hands are washed with soap before meals and after toileting and diapering."</p>	<p>To prevent the spread of disease, the proposed regulation increases the instances when a provider's hands should be washed to include: when dirty; after preparing food; after contact with body fluids; after handling or caring for animals; after handling raw eggs or meat; and that caregivers shall ensure children's hands are washed when dirty; after handling and caring for animals; and after contact with bodily fluids. Clarified that hands should be washed with liquid soap and warm running water.</p>
	<p>22 VAC 40-181-590. Diapering and toileting.</p>		<p>For the protection of children and to prevent the spread of disease, the proposed regulation added requirements that children not be left unattended on changing tables during diapering; that children be cleaned and changed immediately after a diaper or clothing becomes wet or soiled; diapering surfaces to be separate from kitchen and food preparation areas or surfaces used for children's activities; disposal of soiled diapers and wipes; provisions for a leak-proof storage system if cloth diapers are used; privacy during toileting for children five years of age and older; prompt responses from caregivers to a child's request for assistance; consultation</p>

			with parents prior to initiating toilet training; and that toilet training be relaxed and pressure free, and a toilet chair or adult-sized toilet with platform and steps and adapter seat be available to a child being toilet trained; and that toilet chairs be emptied promptly, cleaned and sanitized after each use.
22 VAC 40-180-100. Provider record requirements.	22 VAC 40-181-600. General requirements for medication administration.	<p>The provider shall maintain an individual record for each child enrolled in care. This record shall include:</p> <p>C 7. The child's allergies to medications or drugs, if applicable, and directions for providing medicines to the child.</p> <p>C 9. The parent's signed authorization for the child's emergency medical treatment and written consent for giving medication to the child.</p>	<p>For the safety of children, the proposed regulation adds that medication is to be given according the home's medication administration policy. (A provider is not required to administer medications.)</p> <p>The parent's authorization for medication administration expires or must be renewed after 10 working days except for long-term prescription and non-prescription medication may be permitted with the written authorization of the parent and the child's physician. When an authorization expires, the medication shall be returned to the child's parent or guardian.</p>
22 VAC 40-180-100. Provider record requirements.	22 VAC 40-181-610. Prescription medication.	<p>The provider shall maintain an individual record for each child enrolled in care. This record shall include:</p> <p>C 7. The child's allergies to medications or drugs, if applicable, and directions for providing medicines to the child.</p> <p>C 9. The parent's signed authorization for the child's emergency medical treatment and written consent for giving medication to the child.</p>	<p>To comply with §54.1-3408 N. of the Code of Virginia, requirements were added that the family day home only administer prescription medication that would normally be administered by a parent or guardian; caregivers administer only drugs dispensed from a pharmacy and maintained in the original, labeled container; and administer drugs only to the child identified on the prescription label in accordance with the prescriber's instructions for dosage, frequency, and manner of administration. Clarifies that prescription medication may only be administered by a caregiver who has a current Medication Administration Training (MAT) certificate.</p>
22 VAC 40-180-100. Provider record requirements.	22 VAC 40-181-620. Non-prescription medication.	<p>The provider shall maintain an individual record for each child enrolled in care. This record shall include:</p> <p>7. The child's allergies to medications or drugs, if applicable, and directions for providing medicines to the child.</p> <p>9. The parent's signed authorization for the child's emergency medical treatment and written</p>	<p>Strengthens protections to children by adding requirements that non-prescription medication only be administered by a caregiver 18 year of age or older; the medication is labeled with the child's name; is in the original container with the manufacturer's direction label attached; given only at the dose, duration, and method of administration specified for the age or weight for the child. Prohibits the use of expired non-prescription medication.</p>

		consent for giving medication to the child.	
	22 VAC 40-181-620. Storage of medication.	Health and safety checklist, "I keep medications and toxic household products in areas inaccessible to children and away from food products."	For the protection of children, the proposed regulation was reworded to require that medications for children in care be stored separately from medications for household members. When needed, provisions are included to refrigerate medications and to keep refrigerated medications stored together in a container or clearly defined area if stored in a refrigerator that is used for food storage. Clarified the requirement that providers keep medications inaccessible to enrolled children includes medications belonging to any enrolled child as well as medications belonging to the provider, other caregivers, and household members.
	22 VAC 40-181-640. Medication records.		To protect children, the proposed regulation requires that provider keep a record of prescription and non-prescription medication given to children and include information as to: name of child; amount and name of medication administered; date and time the medication was administered; caregiver administering medications; any adverse reaction, if any, and any medication errors. This is consistent with medication requirements for licensed family day homes.
	22 VAC 40-181-650. First aid and emergency supplies.	Health and safety checklist "I have a first aid kit and an operable flashlight available at all times."	To protect children, the proposed regulation added requirements that the first aid kit be readily accessible to caregivers and kept inaccessible to children. Added further requirement that first aid kit should also be available when children are in outdoor play area, on field trips, and in vehicles used for transportation of children. This is to ensure that caregivers are able to quickly respond to an accident or an injury. Requirement was added that providers have a battery operated radio available at all times to ensure access to weather and emergency information even in a loss of power situation such as a violent storm.
22 VAC 40-180-100. Provider record requirements.	22 VAC 40-181-660. Emergency information.	The emergency contact information listed in subdivisions C2 through C5 of this section shall be made available to a physician, hospital or	For emergency preparedness purposes, the proposed regulation requires the provider to annually review the child's emergency contact information with the parent. For clarity, deleted "emergency care

		emergency care unit in the event of an emergency.	unit” and substituted “emergency responders” as more accurate.
	22 VAC 40-181-670. Posted telephone numbers.	Health and safety checklist, “I have an operable telephone, or have easy access to one, with a 911 sticker or emergency telephone numbers posted in clear view.”	To strengthen the protections to children, the proposed regulation requires that the following telephone numbers be posted in a visible area close to the telephone – a 911 or local dial number for police, fire, and emergency medical responders; and the poison control number.
	22 VAC 40-181-680. Emergency preparedness and response plan.		For children’s safety and based on recommendations from the Virginia Department of Emergency Management, a written emergency preparedness plan is required that addresses the most likely to occur emergency scenarios; has evacuation, relocation, and shelter-in-place procedures; and requires the provider to ensure that each caregiver receives training regarding emergency evacuation, relocation, and shelter-in-place procedures by the end of the first week of job responsibilities and every two years, prior to renewal inspection, and at the time of plan updates and changes.
	22 VAC 40-181-690. Evacuation and relocation procedures.	Health and safety checklist, “I practice emergency evacuation drills monthly to the point of exit from the home and have a posted evacuation plan.”	For children’s safety and based on recommendations from the Virginia Department of Emergency Management, requirements were added for the emergency preparedness and response plan to contain evacuation and relocation procedures that include methods to alert caregivers and emergency responders; primary and secondary routes out of the building; assembly points; methods to ensure all children are evacuated and moved to a relocation site, if necessary; methods to account for all children at assembly and relocation sites; methods to ensure essential documents, medications, and supplies are taken to safe location; the method of communication with emergency responders and parents.
	22 VAC 40-181-700. Shelter-in-place procedures.		For children’s safety and based on recommendations from the Virginia Department of Emergency Management, requirements were added for the emergency preparedness and response plan to contain shelter-in-place procedures that include methods to alert caregivers and emergency responders; designated safe locations;

			primary route to designated location; methods to ensure all children are moved to safe location; method to ensure essential documents, emergency contact information, necessary medications and supplies are taken to the safe location; and method of communication with emergency responders and parents.
	22 VAC 40-181-710. Emergency response drills.	Health and safety checklist, "I practice emergency evacuation drills monthly to the point of exit from the home and have a posted evacuation plan."	For children's safety and to comply with the Statewide Fire Prevention Code, and based on recommendations from the Virginia Department of Emergency Management, requirements were added that evacuation procedures be practiced monthly with all caregivers for each shift children are in care. Shelter-in-place procedures are to be practiced at least annually for children in care on each shift. Additionally, the provider shall maintain documentation of emergency evacuation and shelter-in-place drills that includes: date and time of drill; number of caregivers participating; number of children participating; any special conditions simulated; time it took to complete the drill; and any problems encountered.
	22 VAC 40-181-720. General recordkeeping.	Requirements for provider records to include that they are open for inspection by contract agency and the department and contents of the children's records. Also included are requirements that emergency contact information be made available to physician, hospital, or emergency care unit in the event of a child's illness or injury, and that records and information pertaining to individual children and their families shall not be disclosed without written permission except to contract agency staff and department representatives in the course of their duties. Lastly, this section required providers to maintain signed receipt from parents that they received the Information to Parents Statement.	To ensure children's safety and to facilitate the inspection process, requirements were added for the provider to maintain a written record of children in attendance each day and maintain those records for a minimum of six months and make them available to the contract agency and the department. To strengthen the authority of parents, the proposed regulation requires that children's records be made available to a child's parent upon request, unless otherwise ordered by the court. To facilitate in the inspection process children records shall be maintained and made accessible to authorized representatives for a minimum of one year from date of termination of services. Signed receipt of the Information to Parents was moved to 22 VAC 40-181-730 – Children's record along with information that shall be maintained in each child's record such as, but not limited to, child's name and date of birth, contact information for parents,

			<p>employment information, emergency contact, medical information, and agreements between the parent and provider.</p>
<p>22 VAC 40-180-100. Provider record requirements.</p>	<p>22 VAC 40-181-730. Children's records.</p>	<p>Requirements for provider records to include they are open for inspection by the contract agency and the department and contents of the children's records. Also included are requirements that emergency contact information be made available to physician, hospital, or emergency care unit in the event of a child's illness or injury, and that records and information pertaining to individual children and their families shall not be disclosed without written permission except to contract agency staff and department representatives in the course of their duties. Lastly this section required providers to maintain signed receipt from parents that they received the Information to Parents Statement.</p>	<p>Signed receipt of the Information to Parents was moved to 22 VAC 40-181-730 – Children's record along with information that shall be maintained in each child's record such as, but not limited to, child's name and date of birth, contact information for parents, employment information, emergency contact, medical information, and agreements between the parent and provider.</p> <p>To ensure children's safety and ensure compliance with Code requirement the following requirements were added: proof of a child's identity and age and the names and addresses of previous child day programs and schools, written authorization if a child is to be administered prescription or non-prescription medication [Requirements for administering prescription medication are in another section.], ensures parents have the right to present a written objection to provision of medical treatment on religious or other grounds. Also strengthens protection to children by requiring written permission for swimming and wading activities, documenting parental review of emergency contact information at least annually, notification to parents of pets or animals in the home, disclosing to parents the amount of time that an adult assistant or substitute provider is scheduled to care for children. Additional changes include the responsibility of the day care provider to notify parents of the following: medication administration policy, whether the family day home has liability insurance in effect as required by § 63.2-1809.1 of the Code of Virginia; policies for the provision of food; behavior guidance policies; and policies for termination of child care. These are included to strengthen the protections to children and allow parents to make informed choices regarding child care.</p>

<p>22 VAC 40-180-100. Provider record requirements.</p>	<p>22 VAC 40-181-740. Immunizations for children.</p>	<p>C 10. Results of the health examination and up-to-date immunization records of each child unless there is a record of medical or religious exemption.</p> <p>Health and safety checklist, "I have proof of adequate immunization received on the date of admission (or prior to admission) for each child admitted after 3/3/10. Any child whose immunizations are incomplete as of 3/3/10 (but who has received at least one dose of the required immunization) is admitted conditionally for a period of 90 days or less accompanied by a schedule for completion of the required doses. At the end of 90 days I will exclude any child who is not adequately immunized and who has not been granted a medical or religious exemption until the child's parent provides documentary proof that immunization schedule has been completed or a medical contraindication developed during the conditional enrollment period."</p>	<p>The proposed regulation moves this requirement from the checklist into the regulation and adds that the family day home shall obtain documentation of additional immunizations for a child who is not exempt from the immunization requirements once every six months for children under the age of two and once between the child's fourth and sixth birthdays.</p>
<p>22 VAC 40-180-100. Provider record requirements.</p>	<p>22 VAC 40-181-750. Physical examinations for children.</p>	<p>C 10. Results of the health examination and up-to-date immunization records of each child unless there is a record of medical or religious exemption.</p> <p>Health and safety checklist, "I keep a copy of the physical examination results obtained on each child before or within 30 days after enrollment."</p>	<p>To ensure that providers have the current physical examinations, added time frames for physicals conducted prior to attendance to be within: two months prior to attendance for children six months of age or younger; three months prior to attendance for children age seven months through 18 months; six months prior to attendance for children age 19 months through 24 months; twelve months prior to attendance for children two years of age through five years of age; and twenty-four months prior to attendance for children six years of age and above. The exception was added that a new physical examination is not required if a copy of the physical examination is available to the admitting family day</p>

			home for a child transferring from a facility licensed by the Virginia Department of Social Services; approved by a licensed family day system; a voluntarily registered family day home or transferring from a Virginia Department of Education-approved child care program. For a school age child, a copy of the physical examination required for entry into a public kindergarten or elementary school is acceptable documentation. Physical examinations are not required for any child whose parent objects on religious grounds.
	22 VAC 40-181-760. Meals and snacks.	Health and safety checklist, "I serve nutritious meals and snacks to children."	To protect children, the proposed regulation adds requirements that food be adequate; prepared, stored, served, and transported in a clean and sanitary manner; tables and high chairs be cleaned after each use; provisions for lunch for those children arriving from half-day programs who have not yet eaten lunch; posted menus; and for milk and milk products to be pasteurized.
	22 VAC 40-181-770. Meals and snacks brought from the child's home.	Health and safety checklist, "My refrigerator is kept at no more than 40°F and food is kept from spoilage, and children's food brought from home and infant formula are clearly labeled with their names."	For clarity, the proposed regulation states that food shall be labeled if brought from home for more than one child in care; and requires provider to provide extra food if children bring an inadequate meal or snack or forgets to bring food from home. For the child's safety unused portions of food must be discarded by the end of the day or returned to the parent.
	22 VAC 40-181-780. Preventing choking.		To reduce the risk of a young child choking on certain foods, the proposed regulation restricts providers from serving food such as hot dogs sliced into rounds, grapes, raw carrots, hard candy, and popcorn to children under four years of age unless the food is prepared in a manner that will reduce the risk of choking, i.e., hot dogs cut lengthwise, grapes cut in small pieces, carrots cooked or cut lengthwise.
	22 VAC 40-181-790. Drinking water and fluids.	Health and safety checklist, "Drinking water is available to children at all times."	For children's safety and to make the requirement consistent with other regulations for child care programs, the proposed regulation adds that water shall be offered on a regular basis to all children; in environments of 80°F or above, attention shall be given to the fluid needs of children at regular intervals and children shall be

			encouraged to drink fluids. To prevent the spread of disease, the proposed regulation requires clean individual drinking cups be provided daily and prohibits sharing common drinking cups.
	22 VAC 40-181-800. Food storage.	Health and safety checklist, "My refrigerator is kept at no more than 40°F and food is kept from spoilage, and children's food brought from home and infant formula are clearly labeled with their names."	For children's safety, the proposed regulation added the requirement that freezer compartments be kept at or below 0°F; and that the provider shall have an operable thermometer to monitor refrigerator and freezer temperatures; and that perishable food and drink be kept in the refrigerator except when being prepared and served.
	22 VAC 40-181-810. Feeding infants.		For children's safety, the proposed regulation requires: on-demand feeding for infants unless the parent provides other written instructions which are maintained in the child's file; infants who cannot hold their bottles shall be picked up and held for bottle feeding (prohibits propping bottles); high chairs, infant carrier seats must have the waist and crotch straps securely fastened when used by children who are not being held; infant formula must be prepared according to manufacturer or physician instructions; bottles shall be refrigerated and labeled with child's name and date if more than one infant is in care; discarding prepared formula or breast milk after 48 hours or returning to parent if not used; bottles may not be heated in a microwave; and that to avoid burns, heated formula and baby food be stirred or shaken and tested for temperature before being served to children. Additionally solid food may not be given to infants under 4 months of age without written parental consent; and solid foods must be fed to infants with a spoon with the exception of finger foods. Baby food must be served from a dish and not the container; food remaining in the dish shall be discarded; opened containers of baby food shall be labeled with the child's name and date, if more than one infant in care.
22 VAC 40-180-100. Provider record requirements.	22 VAC 40-181-820. Written permission for transportation and field trips.	C 15. The parent's signed authorization to transport children and to take trips out of the immediate community.	The proposed regulation strengthens the protections to children and the authority of parents by requiring written permission to take the children off of the premises of the family day homes.

		<p>Health and safety checklist, "If I transport children, I make sure any vehicle used to transport children meets the standards set by the Division of Motor Vehicles (DMV) and is equipped with the proper restraining devices required by law and children are restrained in accordance with § 46.2-1095 of the Code of Virginia.</p>	<p>A general written permission may be used for regularly scheduled trips such as to a playground, library, and store. Separate written permission must be granted prior to the provider taking children on "special" (those not regularly scheduled) field trips.</p> <p>Furthermore the proposed regulation requires drivers to be 18 years of age or older and required the provider carry emergency information aboard the vehicle: name, address, telephone number of family day home; copy of parent's permission to transport children; child's emergency contact information; emergency supplies; and to have available a mechanism for making phone calls (change, calling card, cell phone, etc.) to parents and emergency responders.</p> <p>Regarding the transportation of children, the proposed regulation strengthens the protections to children by requiring the vehicle be licensed and insured according to state law (insured or uninsured fees paid to DMV) and the provider shall ensure that all seats are attached to the floor; each child is in an individual car seat or individual and appropriate restraint; the child's arms, legs, and head remain in the vehicle; and no child may be left unattended inside or outside a vehicle.</p>
	<p>22 VAC 40-181-830. Nighttime care.</p>	<p>Health and safety checklist, "Cribs or playpens that meet the current Consumer Product Safety Commission (CPSC) guidelines for cribs are used for children under 18 months of age. The service side of an occupied crib is accessible. Crib slats are no more than 2 3/8 inches apart."</p> <p>"I allow only one child to occupy a crib or playpen at a time."</p>	<p>For the safety and comfort of children, the proposed regulation adds requirements for providers who offer nighttime care to children who will sleep more than four continuous hours. Included are requirements for the sleep area, for infants requiring a crib that meets the current CPSC guidelines and prohibiting mesh sided cribs as an additional safety measure; linens, activities, bedtimes established in consultation with child's parents; separate sleeping and dressing areas for children of the opposite sex over six years of age. Each child must have a toothbrush and comb or hairbrush assigned for individual use. Bath towels and washcloths, when used, assigned for individual use and laundered at least weekly. Caregivers must remain awake until all children are</p>

			<p>asleep and sleep on the same floor level as children in care. A baby monitor must 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.</p>
	<p>22 VAC 40-181-840. Animals.</p>	<p>Health and safety checklist, "My dogs and cats have up-to-date rabies shots and are kept from food preparation surfaces."</p>	<p>To protect children, requirements were added for pets or animals, accessible to children, are in good health and show no evidence of carrying a transmittable disease; dogs and cats shall be treated for fleas, ticks or worms as needed. Documentation of current rabies vaccination is to be maintained in the home; animals that have shown aggressive behavior shall not be kept in the home or on the grounds; monkeys, ferrets, reptiles, amphibians, pscittacine birds (birds of the parrot family), or wild or dangerous animals shall not be in areas accessible to children while children are in care. The provider shall ensure that litter boxes, animal toys, food dishes, and water dishes shall be inaccessible to children and animal excrement shall be removed promptly, and, if inside, the soiled area cleaned.</p>
	<p>22 VAC 40-181-850. Swimming and wading activities.</p>		<p>To increase protections to children and decrease the risk of drowning, the proposed regulation added requirements for swimming and wading activities. The proposed additions include: sight and sound supervision by adult caregiver during all swimming and wading activities; written parental permission of the child to participate in swimming or wading activities. To strengthen the authority of parents; the provider shall disclose to parents whether a person certified in life-saving, water rescue, community water safety, or water safety instruction is present and on-duty whenever children are in a pool, lake or other swimming area that is more than 3 feet deep on or off the premises of the family day homes and that outdoor swimming activities are limited to daylight hours only.</p>
	<p>22 VAC 40-181-860. Children with special needs.</p>		<p>To strengthen protections to children and parents, the proposed regulation adds requirements for those providers caring for children with special needs. Guidance will be provided that "special needs" means "a child with developmental disabilities, mental retardation, emotional disturbance,</p>

			<p>sensory or motor impairment, or significant chronic illness who requires special health surveillance or specialized programs, interventions, technologies, or facilities.” The added requirements include caregivers to provide the care and activities recommended in writing by a physician, psychologist, or other professional who has evaluated or treated the child; that the provider shall ensure that the environment is appropriate for the child based on the plan of care and shall instruct other caregivers in proper techniques. Limits the caregiver to performing only those procedures and treatment for which he has the necessary training, experience, credentials or license to perform; and to ensure that staffing is adequate to meet the specific physical or developmental needs of the child and that the parent and provider mutually determine the staffing needs. If necessary, a separate area shall be provided for the purpose of privacy for diapering, dressing, and other personal care procedures for a child above age three who requires assistance in these activities. This proposed addition does not exceed any requirements for licensed child care and is included to ensure that children with special needs are receiving care that meets their needs.</p>
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The regulation was reorganized for clarity. Sections on similar topics were consolidated to facilitate understanding by the providers and contract agency staff. Items that only appeared on the health and safety checklist were incorporated into the regulation. Application and appeal procedures were incorporated since the requirements found in “General Procedures and Information for Licensure” do not apply to voluntarily registered family day homes.