Virginia Regulatory Town Hall

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Fast Track Proposed Regulation
Agency Background Document

Agency name	Child Day Care Council
Virginia Administrative Code (VAC) citation	22 VAC15-30
Regulation title	Standards for Licensed Child Day Centers
Action title	Eliminate annual medication practice demonstration
Date this document prepared	November 8, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The proposed amendments eliminate the requirement for staff certified to administer prescription and over-the-counter medication in licensed child day centers to attend a refresher training practice demonstration annually. Those certified to administer medication would still be required to be retrained at three-year intervals.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The Child Day Care Council approved the Fast Track action to amend 22 VAC 15-30, Standards for Licensed Child Day Centers, on November 8, 2007.

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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of 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 legal authority to promulgate the regulation: § 63.2-1734 states that the Child Day Care Council shall adopt regulations for licensed child day centers that are conducive to the welfare of the children in their care, and § 63.2-1735 gives the Council authority to promulgate regulations for licensed child day centers.

The promulgating entity is the Child Day Care Council

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The initial eight-hour training for staff to become certified to administer medication is rigorous and comprehensive. The training includes successfully completing three competencies in order to become certified. In addition, those certified to administer medication are required to be retrained at three-year intervals. The reason for eliminating the annual requirement for a practice demonstration is because it is repetitive, burdensome, not cost-effective, not required by the Board of Nursing, and affords little to no additional protection to children in care.

Moreover, even if a provider were able to locate an approved trainer for the practice demonstration, this likely would be cost prohibitive. If VDSS takes on the responsibility for supplying opportunities for licensed child day centers to meet this requirement, the cost would prevent VDSS from providing other trainings that are of greater benefit to children in care.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast-track process is being used because there is an urgency regarding the effective date of the proposed changes. The requirement for the practice demonstrations is scheduled to take effect in February 2008. Without using the fast-track action, it would be impossible to eliminate this requirement prior to February 2008. The fast-track action will prevent unnecessary costs from being incurred by the licensed child day centers as well as the Commonwealth.

We expect this rulemaking to be noncontroversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

22 VAC 15-30-310 – Staff training and development.
Deletes the requirement for annual refresher training practice demonstrations for staff certified to administered medications in licensed child day centers.

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 there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantage to the removal of the annual practice demonstration is the significant cost savings for licensed child day centers and the Commonwealth. At this time there are no foreseen disadvantages to the public, children in care, or the Commonwealth.

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.

The removal of the annual practice demonstrations requirement will eliminate adverse financial impact on licensed child day centers, almost all of which are small businesses.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	None
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	Licensed child day centers
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.	2600+ (almost all are small businesses)
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	Reduction in cost

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 proposed regulation is the least intrusive to accomplish the purpose of the action.

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.

It is possible that if the requirement remains, the fees for licensed child care could increase to cover the cost of the annual practice demonstrations. Elimination of the requirement could potentially save parents from a possible rate increase for licensed child care. With this less burdensome training requirement, licensed child day programs are more likely to offer medication administration services to children.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes 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 and rationale
22 VAC 15-30-310		The standard contains requirements for staff training and development.	The proposed changes include: deleting the requirement for annual practice demonstrations for certified staff who administer prescription and over-the-counter medications.