



**Virginia  
Regulatory  
Town Hall**

**Periodic Review and  
Notice of Intended Regulatory Action  
Agency Background Document**

<b>Agency Name:</b>	Department of Social Services
<b>VAC Chapter Number:</b>	22 VAC 15-30-10 et seq.
<b>Regulation Title:</b>	Minimum Standards for Licensed Child Day Centers
<b>Action Title:</b>	Revision from Periodic Review
<b>Date:</b>	12/18/01

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

**Summary**

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

This regulation establishes minimum standards for licensed child day centers. The purpose of these standards is to protect children under the age of 13 who are separated from their parents during a part of the day by: ensuring that the activities, services, and facilities of centers are conducive to the well-being of children and reducing risks in the environment. The regulation covers the following topics: administration, staff qualifications and training, physical plant, staffing and supervision, programs, special care provisions and emergencies, and special services.

## Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

Sections 63.1-202 and 63.1-202.1 of the Code of Virginia mandate the Child Day-Care Council to promulgate child day center regulations, which are designed to ensure the activities, services and facilities are conducive to the welfare of children. The Code also mandates that “such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age and number of children...to be maintained, cared for...as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services and facilities to be employed...such regulations shall not require the adoption of a specific teaching approach or doctrine.” This regulation is mandated and does not exceed the minimum requirements of the Code of Virginia.

## Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.*

On October 24, 2000, the Child Day-Care Council sent a survey to approximately 2600 child day center operators and licensing staff concerned with these programs on the regulation entitled Minimum Standards for Licensed Child Day Centers. Three hundred and seventy one surveys were returned representing 440 licensed centers and licensing staff.

The twenty-day comment period on this regulation occurred May 21 to June 10, 2001. A post card announcing this comment period was sent to licensed child day centers, licensing staff concerned with these programs and individuals on the Council’s interested party list. This post card stated that comments obtained from the survey last fall would be considered during the review of this regulation and if the person’s comments remained the same, there was no need to resubmit survey comments. Fourteen public comments were received during this public comment period.

Below is a summary of the 1) survey format, 2) survey results and 3) comments from the public comment period.

The survey requested respondents to rate the protection, cost, intrusion and clarity of certain standards that were previously identified as possibly needing revision. In addition narrative comments were requested on these standards. These standards were:

- 1) definition of programmatic experience (22 VAC 15-30-10),
- 2) program director qualifications (22 VAC 15-30-230 A 1-5),

- 3) program leader qualifications (22 VAC 15-30-260 A 1&2),
- 4) staff orientation training (22 VAC 15-30-310 A 1-5),
- 5) annual training (22 VAC 15-30-310 C),
- 6) handrails and guardrails on steps (22 VAC 15-30-360 1),
- 7) resilient surfacing (22 VAC 15-30-410 B),
- 8) presence of a program leader in a group of children (22 VAC 15-30-430 D),
- 9) supervision of children under 10 years of age (22 VAC 15-30-430 E 1&2),
- 10) staff-to-children ratio requirements for balanced mixed-age groupings (22 VAC 15-30-440 E 6 a-c),
- 11) notification and documentation on injuries and other incidents (22 VAC 15-30-610 G 1-6), and
- 12) use of seating equipment to feed young children (22 VAC 15-30-630 A).

Except for 22 VAC 15-30-630 A about seating equipment for young children, results indicated that the majority of respondents felt these standards:

- 1) offered appropriate protection;
- 2) had a justified cost impact or no cost impact;
- 3) were a necessary intrusion or were not intrusive; and
- 4) were very clear or clear but could be written better.

The less favorable response to 22 VAC 15-30-630 A, may be because over 30% of the respondents did not have an opinion, which could be attributed to the fact that many center operators do not provide care to infants.

Narrative comments on the above mentioned standards are described below.

22 VAC 15-30-10 – Definition of Programmatic Experience. Many respondents indicated that the definition was too narrow since it does not allow for experience in children’s programs that are not regulated (e.g., recreation program, Sunday school). Other comments include: flexibility is needed, hard to find people with appropriate experience, hard to obtain necessary experience in part-time programs, intrusive to assign responsibility to a specific position, definition is appropriate/good, definition is vague, consider testing since those meeting qualifications are not necessarily the best candidates and need to consider how to count experience that occurs during the school year.

Response: please see 22 VAC 15-30-230 and 22 VAC 15-30-260 under the substance section of this document.

22 VAC 15-30-230 A 1-5 – Program Director Qualifications. Please refer to comments on the definition of programmatic experience. Comments varied between the need for the center to have flexibility in hiring people since qualified applicants are not available and the need for the program director to have more education.

Comments in favor of flexibility or broadening the qualifications include: qualifications are too high/stringent, qualifications are not appropriate for special interest programs, does not allow flexibility to hire people based on “people traits,” allow center to determine who is qualified, qualifications are not realistic, hard to hire people with child related education, hard to hire staff for before and after school programs and summer only programs, education and experience requirements are too high for before and after school programs, should accept school teachers, accept credentials by accrediting organizations, need more flexibility, need to consider park and recreation degrees/credentials, need to allow flexibility for substitute staff and need for guidelines when a qualified person cannot be hired.

Comments in support of education include: directors need at least an associate degree or a Child Development Associate credential (C.D.A); directors need at least an associate degree; delete option 4, which requires at least two years of experience (one year in a staff supervisory capacity) and some type of certificate or credential; option 5, which requires three years of experience in a center with a staff training program, is not adequate; options 4 and 5 are not adequate; require a four year degree; need early childhood education; need for more training; need a child related degree and three years of experience; require a masters degree; education and experience is a must and need more education and experience.

Other comments include: qualifications are realistic, college degree not respected, need financial support from state to meet qualifications, qualifications do not guarantee a solid knowledge base of education, need more experience, one year of experience is enough, options are not equitable, one year of experience is not necessary with a child related degree (option 2) or 48 semester hours in a child related field (option 3), need to consider internal training programs, there should be more weight on experience, there should not be experience requirements with a graduate degree in a child related field (option 1) or a bachelor’s degree in a child related field (option 2) - internships are part of the course of study, option 4 should not have a requirement that one year be in a staff supervisory capacity, revise option 5 so experience is in a licensed center and delete the training program, allow a degree in any field, how does someone determine if the college is accredited, delete requirement for accreditation, delete requirement for experience in a supervisory capacity, with option 5 it is not necessary to have training concerning birth to age 12 years if the program concerns only school age children, need explanation of training plan, delete age requirement, option 1 is not strong enough and support credentials.

Response: please see 22 VAC 15-30-230 under the substance section of this document.

22 VAC 15-30-260 A 1 and 2 – Program Leader Qualifications. Please refer to comments on the definition of programmatic experience. Many respondents indicated that more than a month is needed to complete the 12 hours of training mentioned in the second option. Also, many of the comments that were made about the program director qualifications were also made for the program leader qualifications.

Comments about the experience requirements varied and include: people with degrees may not have experience, one month experience should be appropriate for school age programs, three months is a long time, accept associate degree or higher with no experience, count any work with children, need more experience, one or two months of experience is appropriate, three months of experience is not adequate but any more would make it difficult to hire program leaders, without formal education there is a need for one year of experience and need six months of experience.

Comments about the education requirements include: training is not necessary, need more than a high school diploma, increase training to 24 hours, education requirement too stringent with three months of experience, require a bachelor's degree, require six hours of training, 12 hours of training is inadequate unless extensive experience, early childhood education is not applicable to programs for only school age children and need some higher education.

Other comments include: college degree is not respected, qualifications should be different for camps, exempt special interest programs, need different qualifications for parent cooperatives, delete the second option, raise age requirement to 21 years of age, should allow mothers to qualify, allow a 17 year old without a high school diploma, option 2 (six months of experience, a high school diploma/G.E.D./completion of home school program and 12 hours of training within one month of promotion/beginning work) is not adequate, adequate, need more education and experience, too lenient, and hard to find staff for part time work.

Response: please see 22 VAC 15-30-260 under the substance section of this document.

22 VAC 15-30-310 A 1-5 – Staff Orientation Training. Many respondents stated that orientation training should occur before the first day of assuming job responsibilities while many other respondents stated orientation training resulted in too much to do by the end of the first day of assuming job responsibilities and suggested having this training completed by the end of the first week. Suggestions were made to add: the center's own policies and procedures, child abuse detection and reporting, van procedures, safe practices for hand washing and sanitation control, diaper changing. Positive comments were expressed about the importance of this standard. Others were fine with the standard as stated. Other comments include: need more orientation, orientation can occur in writing, need a refresher, not necessary to do every year, item 2 (regarding policies required by the regulation) and item 5 (regarding standards related to the staff member's responsibilities) are duplicative, should allow for progressive training, item 1 (regarding job responsibilities and to whom they report) and item 2 (regarding policies required by the regulation) are not needed since the director would handle these, allow orientation on the job, documentation of training is intrusive and costs money due to turnover rate.

Response: requiring orientation training by the end of the first day of assuming job responsibilities is a reasonable approach for operators yet provides protection for children.

22 VAC 15-30-310 C – Annual Training. Numerous comments stated that: first aid and CPR should be counted as annual training, there is a need for more hours of annual training and there is a need for guidelines on who conducts the training to assure it is appropriate. Comments varied from important, too little required, good, appropriate, adequate, minimal and too much. Suggestions for specific hours of training include 12, 10 and 6. Comments state less training is needed for: long term employees, staff with degrees in child development, staff with degrees and well trained staff; more training is needed for staff without degrees. Comments concerning type of program include: undue burden for parent cooperatives, delete/reduce for short-term programs, hardship for before and after school programs and address half day programs and part-time staff.

Other comments include: require only for new staff, difficult to meet, count any programmatic issue dealing with children, vary amount by staff responsibility, allow for self training, 50% of training should be from an outside qualified trainer, include universal precautions, require daily observation class, delete “the function of the center,” costly and limit training from a video.

Response: please see 22 VAC 15-30-310 C in the substance section of this document.

22 VAC 15-30-360 1 – Handrails and Guardrails on Steps. The type of comments varied and include: consider older facilities, allow flexibility according to location of stairs, change 3 ½ inches to 3 ¾ inches, city/BOCA code covers this, reasonable, hard to comply in rented facilities, indoor play equipment should not need to meet this requirement, take other issues into consideration, slat distance is not needed, need to consider supervision, handrail should be child’s height, consider posts on porches, should specify a handrail on each side of steps, should apply to more than three risers and intrusive.

Response: please see 22 VAC 15-30-360 1 in the substance section of this document.

22 VAC 15-30-410 B – Resilient Surfacing. Many comments mentioned that: there is a need to specify the area of the fall zone, there is a problem because public schools and licensed centers have different requirements and there have been more injuries to children with resilient surfacing (scrapes, getting material into child’s eyes). General comments on this standard include: too much required, 12 inches should be required, good requirement, cost is too high, need to reduce child injury, justified cost, delete since too burdensome, 6 inches may not be enough, costly at public schools due to wear, reduce amount, let provider decide on this liability issue and an important requirement. Concerns were expressed about maintaining the surface and include: suggestion to have 6 inches installed six months prior to inspection to recognize good faith efforts, 6 inches impossible to maintain (especially at public schools), surfaces impractical, hard

to keep resilient surface depth under slides and swings, takes time away from children to rake mulch, surfacing moves constantly, address maintenance and compacting of resilient surfacing is a problem. Other comments include: exempt baby swings, child's trajectory for resilient surfacing will require removing equipment, wood chips and pea gravel present unsafe environment, fall zones on toddler playgrounds are intrusive – perhaps limit equipment height, should address height of equipment, grass is appropriate for Little Tykes equipment and supervision is important.

Response: please see 22 VAC 15-30-410 B and 22 VAC 15-30-370 A in the substance section of this document.

22 VAC 15-30-430 D – Presence of a Program Leader in a Group of Children. Several respondents stated the need to know the meaning of “regularly present.” Comments requesting flexibility include: too restrictive/intrusive, appropriate, qualified aide should be left alone with children if qualified staff nearby, need flexibility during staff breaks, does not allow for an aide with lots of experience but no high school diploma, aides should be allowed during rest time, makes it hard to find substitutes – allow aides with experience to substitute, leave decision to the director, supervision of aide by sound (not sight) should be enough, make allowances for absences, apply standard only to aides under 18 years of age, program leader not needed for programs for school age children, results in children not having a choice of different activities in different locations of the premises, should allow times for program leader to be out of the classroom, aides with experience or education can be responsible, some aides are better than teachers, this requirement discourages small classrooms, it should be ok if a program leader monitors a classroom regularly, need flexibility, cost money and Montessori allows for the temporary absence of an adult. Other comments include: need well trained staff at all times, adequate if qualifications are strengthened, require program leader the majority of the day, not having a program leader puts children at risk since aides are usually teenagers and program leaders should be “usually present.”

Regarding the supervision of aides, the comments include: overly protective to limit supervision to two aides, allow supervision of more than two aides since it is difficult to meet when staff are absent or during the afternoon when teachers have left for the day, supervision should relate to the number of children not the number of adults, two aides with one teacher is not adequate during instructional time with older children, allow supervision of three aides if the groups stays together and supervision of two aides is too many for one program leader.

Response: please see 22 VAC 15-30-280 B in the substance section of this document.

22 VAC 15-30-430 E 1 and 2 – Supervision of Children Under Ten Years of Age. Comments mentioned the different abilities of younger children and older children. Comments applicable to all ages of children include: staff should be with children at all times, this would require extra staff during restroom time, five minutes without sight and sound supervision is too long, children can damage property within five minutes, need to emphasize standing by the restroom door,

change five minutes to two minutes, good requirement, children can be safe when not in sight supervision, with public facilities it is hard to control entering of non-staff persons, address dressing and changing clothes and something tragic can happen in five minutes.

Comments regarding the supervision of younger children include: preschool children have inappropriate sexual behavior so there should be sight and sound supervision of more than one child in the restroom, children under three years of age need help in the restroom, children three years or older need staff standing outside restroom door in case the children need help, children under five years of age should be within sight and sound at all times, three- and four-year-old children can get into a lot of trouble in five minutes, one- and two-year-old children should be in constant supervision, need to see or hear a child that is being potty trained and five minutes without sight and sound supervision is too long for preschool children.

Comments regarding the supervision of school age children include: children in school use restrooms without supervision, over-supervision if school age child cannot go to the restroom on his own, school age children should be able to get back packs from another room without supervision, sight or sound supervision for children eight years of age or older instead of 10 years of age or older, it is ok if you only hear school age children and school age children can walk home from school alone.

Response: leave as is. The current standard provides a minimum level of protection for children yet is reasonable for providers. Staff working with preschool children can provide additional sight supervision as needed.

22 VAC 15-30-440 E 6 a-c – Staff-to-Children Ratio Requirements for Balanced Mixed-Age Groupings. Comments varied and include: 1:10 ratio, 1:12 ratio, 1:8 ratio, should be below 1:10, 1:15 is too high, stick with regular ratios, excessive staff, four- and five-year-old children should have a 1:15 ratio, ratios inappropriate for young children, delete this option, delete or specify only for Montessori, bias to Montessori, not fair, puts children at risk (especially for an average program leader), not necessary to have specialized training, eight hours of training is inadequate, the key to safety is the training, impossible to have an exact balance, cost prohibitive to have auxiliary person, need flexible ratios in an emergency, allow director discretion, not clear and contradicts other standards.

Response: leave as is. The standard is equitable to all programs. Programs with a balanced mixed age group and a 1:15 ratio have been safe.

22 VAC 15-30-610 G – Notification and Documentation on Injuries and Other Incidents. Several comments stated parents should be notified immediately if the child has a significant injury and numerous comments expressed concern about documenting any future action to prevent recurrence of the injury (subdivision 6). Comments include: need to define/clarify “significant” and “serious,” parents should be able to seek medical attention during normal business hours, reasonable, parents need to be notified of any injury, too much paperwork on

minor injuries, only require parent notification (no documentation), takes time to document, in center's legal interest to keep this type of record keeping, standard does not address incidents and parent and staff should sign form.

Comments regarding subdivision 6 include: delete, require only if applicable, delete unless using equipment or not supervised, delete unless the injury was major or significant, this is covered by the injury prevention plan, puts liability on the center and is not helpful.

Response: please see 22 VAC 15-30-610 G under the substance section of this document.

22 VAC 15-30-630 A – Use of Seating Equipment to Feed Young Children. Comments include: good, ok, do not allow infant carrier seats, food should not be placed directly on feeding table, allow for new types of infant seats, children should sit closer to floor to avoid flipping over in high chair, staff should be within reach of child in high chair and be trained in first aid, allow bouncy seats and cribs, infants are in high chairs all day long, belt requirement is not developmentally appropriate when children's feet touch the floor, how do you wash car seats on a regular basis, add "at all times," what is a feeding table and there is a cost impact.

Response: leave as is. The current standard offers appropriate protection.

Comments were received on other center standards not specifically mentioned in the survey. Below is a summary of these comments from both the survey and public comment period. Given the number of surveys returned, very few people expressed concern about these standards. These comments were reviewed and where a revision was appropriate, the standard was revised. The comments that resulted in a revision are marked by an asterisk and the change can be found under the substance section of this document.

General. Camps should have own section, delete all standards, programs in public schools should have same rules as public schools, the standards for centers in public schools and the standards for public schools should be consistent, parent cooperatives could be exempt since parents monitor the program's safety, standards for before and after school programs should be separate from standards for preschool programs, separate standards by age groups, exempt parks and recreation or have a special category, don't add any more requirements, don't lower standards, develop new appropriate standards – don't compromise like last time, relax the standards for preschool programs that operate less than four hours a day, requirements are good but allow a lot of leeway for interpretation, standards great as they are, young volunteers should not be counted in the license capacity, standards are minimum, standards are not appropriate for children who attend only 2 ½ hours a day, pleased with the standards, appreciate making standards measurable, applaud effort to keep day care right, and standards are well written, user friendly and offer adequate protection.

Suggestions for New Standards. Require complaints to be in writing with signature and address/phone number, require shade since children need to be protected from the sun, require

staff to be understanding and sensitive to the needs of children, need procedures for bites and require outdoor time for infants.

22 VAC 15-30-50 E – Operational Responsibilities. Add that the center follow their own policies and procedures.

22 VAC 15-30-80 – Children’s Records. Add to subdivision 3 cellular phones, pager or other business phone such as the main office. Add to subdivision 5 place of work.

22 VAC 15-30-90 – Staff Records. Regarding subdivision 2, delete requirement for references. Regarding subdivision 3, allow 30 days to get a criminal record check and not require a check if aide is under 18 years of age. Regarding subdivision 4, list the types of acceptable documentation.

22 VAC 15-30-180 – Tuberculosis Screening. Chest X-rays are expensive. Delete. Not workable. Unnecessary expense.

22 VAC 15-30-200 – General Qualifications. Too vague.

22 VAC 15-30-200 A – Staff. Staff with felonies and misdemeanors need to be reviewed on a case by case basis since an offense may not mean the person poses a threat to children. People deserve a second chance.

22 VAC 15-30-200 B 1 – Good Character and Reputation. Delete this requirement – a matter of opinion.

22 VAC 15-30-230 B – Program Directors of Therapeutic or Special Needs Child Day Programs. Hard to find staff with education and experience in the group care of children with disabilities.

22 VAC 15-30-250 – Back-up for Program Directors. No director is needed for parent cooperatives. Allow assistant directors to be 18 years of age.

22 VAC 15-30-260 C – Program Leader Qualifications for Short-Term Programs. Program leaders at short-term programs should meet the same qualifications as other programs.

22 VAC 15-30-280 – Aides. Need more requirements than just 16 years of age.

22 VAC 15-30-290 C – Volunteers. Thirteen years of age is too young. Aides shall be at least 16 years of age.

22 VAC 15-30-330 – Approval by Other Agencies. Use the public school’s fire and health inspections when the center is located in a public school.

22 VAC 15-30-330 B – Department of Health (DOH) Approval. Do not require DOH approval for restaurants.

\*22 VAC 15-30-350 B – Hazardous Substances. Allow cleaning supplies for the changing table to be out of reach of children instead of being kept in a locked place.

22 VAC 15-30-360 and 370 – General Plant Requirements. Address tripping hazards such as rugs with raveled edges and electrical cords since these are common risks.

22 VAC 15-30-360 2 – Fans. Allow fans if they have a safety grill.

\*22 VAC 15-30-380 C – Playground Area for Infants and Toddlers. Do not require a separate playground for these children if only infants are present.

\*22 VAC 15-30-380 D – Separate Space for Ill/Injured Children. A separate space cannot be provided unless there is a staff member in that space.

22 VAC 15-30-390 B 4 – Restroom Supplies. Allow use of individually assigned towels if laundered after the class.

22 VAC 15-30-410 E – Sandboxes. All sandboxes should be covered.

22 VAC 15-30-430 F – Supervision of Children Ten Years of Age or Older. There should be sight and sound supervision for these children.

22 VAC 15-30-430 G – Supervision on the Outdoor Activity Area. Two staff always need to be on the playground.

22 VAC 15-30-440 A – Counting Staff in Staff-to-Children Ratios. In large groups it is too difficult to supervise directly from hand washing to table.

22 VAC 15-30-440 E – Staff-to-Children Ratios. Ratios should be lower for all age groups. Allow center not to meet ratios when staff are sick. Expensive. Allow more children.

22 VAC 15-30-440 E 1 – Staff-to-Children Ratio for Infants. If there is a half wall in the infant room, the ratio should be determined by the room. Suggest 1:3.

22 VAC 15-30-440 E 2 – Staff-to-Children Ratio for Children 16 Months to Two Years. Change 16 months to 13 months so walking toddlers are separated from infants. Suggest 1:4.

\*22 VAC 15-30-440 E 3 – Staff-to-Children Ratio for Two- and Three-Year-Old Children. Disagree with ratios for three-year-olds. Lower ratio for two-year-olds since these children need to be diapered. Change two year old ratio to 1:7 or 1:8 – this will result in less unexplained accidents. Overly protective. Two-year-olds should have a ratio of 1:6. Three-year-olds should have a ratio of 1:8. Two-year-olds should have 1:10 during diapering/toileting. Increase number of children when over 2 ½ years of age.

22 VAC 15-30-440 E 4 – Staff-to-Children Ratio for Children Four Years of Age to Age of Eligibility to Attend Public School. Disagree with four year old ratio. Four-year-olds should have a 1:15 ratio. Public school ratio for pre-kindergarten is 1:15. Overly protective. Suggest 1:10. Increase number of children.

22 VAC 15-30-440 E 5 – Staff-to-Children Ratio for School Age Children. Suggest 1:12.

\*22 VAC 15-30-461 1 b – Checking Sleeping Infants. Should be checked more often.

\*22 VAC 15-30-461 1 c – Play Spaces and Sleeping Infants. An infant should be able to sleep in a swing or infant seat. Allow car seats and bouncy seats in cribs – infants come in sleeping.

\*22 VAC 15-30-471 A 1 – Outdoor Activity. Define “weather allowing.”

22 VAC 15-30-487 2 – Confined Spaces. Allow cribs for “time out” for biting but limit time to two minutes. Allow cribs as a holding place for infant during diapering but limit time to five minutes.

22 VAC 15-30-490 A 7 – Communicating Emergency Situation with Parents. Clarify that medical policies include emergency notifications and procedures.

22 VAC 15-30-490 B – Behavioral Problems. Need to document behavioral problems.

\*22 VAC 15-30-490 E 3 – Information to Parents. Exempt short-term programs.

\*22 VAC 15-30-500 C 2 – S-Hooks. Closed so the chain does not come out but not require it to be completely closed.

22 VAC 15-30-500 E – Personal Articles. State toothbrushes are not required.

\*22 VAC 15-30-510 L – Prohibited Items for Children Under Two Years of Age. Prohibit bumper pads in cribs.

22 VAC 15-30-520 A – Linens. Require linens for mats. Children’s faces should not be on vinyl.

22 VAC 15-30-540 – Swimming and Supervision. Should address supervision of non-swimming children. Allow a “teenage volunteer” with general experience in water safety instead of a senior lifesaver – safety concerns are addressed by two competent supervisors.

\*22 VAC 15-30-550 D – Wading Pools and Changing Water. Department of Health states wading pools should not be used because they transmit diseases.

22 VAC 15-30-560 A – Swimming Rules. Require these rules be given in writing to parents.

22 VAC 15-30-560 B – Parental Permission for Swimming. Need to address when the child has no swimming skills and later learns these skills and is allowed in the pool.

22 VAC 15-30-560 E – Wading Pools and Children Not Toilet Trained. Department of Health states wading pools should not be used because they transmit diseases.

22 VAC 15-30-570 – Preventing the Spread of Disease. Add method and frequency of sanitizing toys.

\*22 VAC 15-30-570 B 1 – Excluding Children. Raise the temperature exclusion to 101°F. Doctors do not consider 100°F a temperature.

22 VAC 15-30-575 – Hand Washing. Address the use of water play tables such as hand washing prior to use and disinfecting water tables.

22 VAC 15-30-575 B 2 c – Diapering Area. Not comfortable putting a heavy child on a table or counter top.

22 VAC 15-30-575 B 5 – Storage System for Diapers. Allow a diaper genie when sprayed with disinfectant after each use.

\*22 VAC 15-30-580 – Medication. Require training to administer medications.

\*22 VAC 15-30-580 B – Procedures for Administering Medication. Allow medication administration on an “as needed” basis and obtain approval in writing or over the phone. Allow a one time form for sunscreen and diaper cream. For programs operating less than three months, do not require written permission from doctor if medication is in original container. Note: see 22 VAC 15-30-585 for the response.

\*22 VAC 15-30-580 G – Locking of Medications. Need to clarify locked. Need immediate access to epipens. Do not require diaper creams to be locked – require them to be kept out of reach of children. Note: see 22 VAC 15-30-580 G and 22 VAC 15-30-585 for the response.

22 VAC 15-30-590 A – Training in First Aid, CPR and Rescue Breathing. Would like CPR training that is not American Red Cross. Require two staff trained in first aid, CPR and rescue breathing.

22 VAC 15-30-600 D 1 – Syrup of Ipecac and Activated Charcoal Preparation. Delete requirement to have syrup of ipecac - it can be administered wrong and kill a child.

22 VAC 15-30-620 – Nutrition and Food Services. Need to check temperature of refrigerator in the infant room.

22 VAC 15-30-620 F 3 c – Menus. Snack changes should be posted.

22 VAC 15-30-620 K – Meals and Snacks. Delete requirement for staff to sit with children during meal time. Staff need to be serving children and cleaning up.

\*22 VAC 15-30-630 F – Formula, Breast Milk and Prepared Baby Food. Require a time limit on leaving formula and breast milk out of the refrigerator. Opened baby food should be allowed for 24 hours after opening before it must be sent home or discarded.

22 VAC 15-30-640 – Transportation and Field Trips. Children under four years of age should not go on field trips. State that requirements apply when transporting children between facilities.

22 VAC 15-30-640 C 4 – Driver in Vehicle. If a staff member is in the van, he cannot open the door for children or ensure their safety when entering/exiting van or the building.

The Council also reviewed four documents concerning:

- 1) frequent public comments during the last revision of this regulation;
- 2) allowable variances processed on the 1998 version of this regulation;
- 3) issues brought to the attention of the Council (that did not result from the survey or public comment period); and
- 4) feedback from issues encountered during technical assistance on the standards, new developments/research, feedback from regional licensing staff in response to a request and contacts by a licensing staff member concerned with child day center policy.

## Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

The goal of this regulation is to establish minimum standards of care to protect children who attend licensed child day centers. These standards are monitored and compliance documented at least twice a year through on-site inspections by the Department of Social Services. As required by § 63.1-202 of the Code of Virginia the regulation was previously promulgated to ensure the activities, services and facilities are conducive to the welfare of children. Public comments suggested that this regulation could be more clearly written. There are plans to make clarity changes to this regulation when it is revised.

## Alternatives

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

The Council considered the option of including the standards from the regulation entitled General Procedures and Information for Licensure with this center regulation. According to the survey sent October 24, 2000, 85% of the operators responding were aware that the General Procedures regulation applies to their program. Since the issues of the two regulations are different, the Council decided to keep these regulations separate.

During the previous revision of this regulation, the Council included the requirements for centers serving school age children into this regulation and repealed the center regulation for centers serving these older children. The rationale for this decision was that 60% of centers at that time offered care to both preschool and school age children.

The option of not having a center regulation is not feasible because the Code of Virginia requires the Council to promulgate regulations for licensure and operation of child day centers.

### Recommendation

*Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.*

The Child Day-Care Council is recommending that the center regulation be amended. This is needed for the following reasons: there are standards that could be less intrusive and less costly for providers, there are standards that need more protection for the children in care, and there are standards that could be worded clearer.

### Substance

*Please detail any changes that would be implemented.*

The Child Day-Care Council is recommending the following substantial changes to the center regulation. In addition, numerous clarity changes will be made. Note: the current standard numbers are used in this document.

#### PART I. INTRODUCTION.

##### 22 VAC 15-30-10. Definitions.

1. Program Director Definition. Revise definition to allow a center to have multiple directors.

Justification: This could allow a center to have a qualified person available to cover for sick time, vacation, and other needs. It would allow more than one person to act to ensure regulations are met throughout the extent of the day. The definition should be broadened to be more inclusive of qualified individuals, to allow flexibility for the center and to allow more than one person to act to ensure regulations are met throughout the extent of the day. It is reasonable with the long hours centers are open to provide a regulation that would allow for a number of program directors. These standard are being revised to recognize the variety of needs represented by

diverse groups licensed under these regulations and to cultivate leadership in the child care field. In the July/August 2001, issue of Child Care Information Exchange, an article by a former President of the National Association for the Education of Young Children (NAEYC), stresses the importance of growing leaders. "There are, however, conceptualizations emerging that are more amenable to the early care and education culture, and which are reformulating the traditional approach to leadership. These systems theories move away from the idea of leadership being embodied in an individual. Instead they position that unless all parts of an entity work together, the whole is dysfunctional."

2. Programmatic Experience Definition. Revise definition to include work with children in other states or countries in regulated child day centers or homes. This could also include work that is not in a regulated child day center or regulated family day home.

Justification: The current standard fails to credit meaningful experiences. Providers have expressed concerns about not accepting experience in regulated facilities in other states or countries or in children's programs that are not regulated (e.g. recreation program, Sunday school). The current standard is excessively restrictive. The proposed standard is less burdensome. Cost impact: It would allow greater employment opportunities for more citizens of the Commonwealth. The current definition as written implies that "program experience" refers to work experience obtained in the state of Virginia and by only those state institutions listed. By striking the reference to specific state agencies, the regulation will recognize programmatic experience gained in other states and countries.

The definition has been changed to recognize a variety of work-related experiences in child care settings. In a career field that is already experiencing a desperate lack of job applicants, this will broaden the center's ability to hire individuals who have work-related experience with children and individuals who may desire to progress in the child care field. This change in the regulation will allow centers to be culturally sensitive to qualified applicants coming from other countries who are on work permits.

The Council feels that it is more important that workers have work-related experience with children than to force centers into situations where they may have to hire untrained aides with no experience, try to retain them for six months, and go through the expense of additional training, when there may be applicants who are already seeking careers in the field who have gained valuable experience by other means. This change may reduce costs to centers.

## PART II. ADMINISTRATION.

22 VAC 15-30-110. Parental agreements.

B. Delete the standard allowing a school age child to leave the center unsupervised with written permission from a parent.

Justification: This standard protects all children from being without supervision. The current standard forces the center to release a child without proper supervision in any area of town even if the conditions are unsafe (four lane highway, dark outside, one mile from home, etc.).

22 VAC 15-30-180. Tuberculosis screening for staff and independent contractors.

This standard is being revised to be consistent with the risk assessment screening process for tuberculosis.

Justification: This change brings the standard in line with the recommendations of the Centers for Disease Control.

### PART III. STAFF QUALIFICATIONS AND TRAINING.

22 VAC 15-30-200. General qualifications.

C. Delete the requirement that staff who work directly with children be capable of understanding instructions on a prescription bottle.

Justification: Elsewhere in the regulation a standard has been added that there be at least one staff member on duty at all times with annual training in administering medicine from a physician, R.N., health department medical personnel or public health nurse. Also, another standard is added that a staff member with this training must administer the medications.

22 VAC 15-30-230. Program director qualifications.

A. 1., A. 2., and A. 3. Delete the requirement that the education be "child related."

Justification: Because of the employment shortages in the early childhood field, the standard has been broadened to recognize other earned degrees. Rather than forcing centers to choose between the least stringent educational qualifications requiring no college education, the standard provides balance by still requiring programmatic experience with earned college degrees. Because there are so few colleges and universities that offer degrees in early childhood education, the present standard offers few options in the truly "child-related" fields.

A. 1., A. 2., A. 3. and A. 4. a. This allows for education from a college or university that is not accredited.

Justification: According to Sentate Document No. 4, A Study of Quality, Affordability and Accessibility of Child Care in the Commonwealth of Virginia: "The absence of a high level of formal child development education among the providers appears to be an unimportant issue for most parents." (page 17) And further, "There is a strongly held view that formal child development education does not ensure quality child care." (page 15)

The deletion of "accredited college or university" is based on the fact that the State does not provide a listing of accredited colleges and universities to providers. Further, in light of the cultural diversity of employees, it may not be possible for an employer to verify "accredited" for college education obtained in other countries. To reject well-qualified applicants who obtained college credit from outside of the United States appears to be bias.

A. 4. b. Revise standard to allow the qualification option to refer to the accreditation organizations mentioned in § 63.1-196.001 A 12 of the Code of Virginia.

Justification: The change will conform to Code.

A. 4. c. Delete the qualification option of certification from an internationally or nationally recognized Montessori organization.

Justification: Montessori credentials are listed in § 63.1-196.001 A 12 of the Code of Virginia.

A. 5. Revise standard to change one qualification option to specify that programmatic experience and training needs to be obtained rather than only working at a center which offers a staff training program.

Justification: To clarify that the director must actually have obtained the training.

22 VAC 15-30-250. Back up for program directors.

This standard allows for multiple number of program directors. It clarifies that the program directors must be on site 50% of the center's hours of operation. It deletes the 75% time requirement for program directors at short term programs that hire program leaders that meet the alternative qualification.

Justification: Allowing a center to designate more than one person as program director, provides more staff supervision to cover sick time, vacation, and other operational needs. It provides employees opportunities to move up the career ladder. It bring clarity. If 50% is required, "regularly" has no value. This change is less intrusive. Provides a minimal level of supervision while providing maximum flexibility.

22 VAC 15-30-260. Program leader and child supervisor qualifications.

A. 1. a. This allows that the education come from a college or university that is not accredited.

Justification: In light of the cultural diversity of employees, it may not be possible for an employer to verify "accredited" for college education obtained in other countries. To reject well-qualified applicants who obtained college credit from outside the United States appears to be bias.

A. 1. b. Revise to allow the qualification option to refer to the accreditation organizations mentioned in § 63.1-196.001 A 12 of the Code of Virginia.

Justification: The change will conform to the Code of Virginia. One of the Council's goals is strengthening teacher training by recognizing and utilizing organizations mentioned in § 63.1-196.001 A 12 of the Code of Virginia. In the past the Department of Social Services has recognized only the Child Development Associate (CDA) credential. There are other organizations that also offer training opportunities and credentials. Since the Code of Virginia states that regulations shall not require the adoption of a specific teaching approach or doctrine, the Council has broadened the program leader qualifications to be consistent with the Code of Virginia. In light of these two important changes in the Code of Virginia, the current regulation is archaic.

A. 1. c. Delete the qualification option of certification from an internationally or nationally recognized Montessori organization.

Justification: Montessori credentials are listed in § 63.1-196.001 A 12 of the Code of Virginia.

A.2. Revise to allow 90 days from hire or promotion to obtain the 12 hours of training. This change will allow the 12 hours of training for program leaders that have six months of experience to take place while supervising children or to be acquired through mentoring, video tapes, in-house service, seminars, college, etc.

Justification: Quality training supersedes expedient training. Outside training opportunities may not be immediately available. The current standard is misinterpreted as currently worded. Quality training can occur on the job through mentoring. It increases opportunities for training. Realizing that research shows that high turnover can affect the quality of child care, efforts have been made to promote opportunities for child care employees to make a commitment to life-long careers. Public comment has also encouraged the Council to allow the 12 hours of training for program leaders to take place while supervising children. It is important that employees gain valuable hands-on training in safety areas such as proper diaper changing procedures, taking

universal precautions and handwashing. This is best learned in actual practice with a trained supervisor. This regulation change allows additional training opportunities to be counted for staff. The longer training period allows for opportunities for employees to engage in hands-on practice and to observe actual demonstration of skills to be learned.

22 VAC 15-30-280. Aides.

B. (new) The suggestion is to newly allow aides over 18 years of age who have at least six months of programmatic experience at that center to substitute for a program leader for periods up to two consecutive weeks when there is indirect program leader supervision.

Justification: This change is being recommended to provide children with a more stable environment and to cause less stress in children when classes must be combined when a regular program leader is absent for a short time. This change is less burdensome and allows more flexibility for centers to use regular employees who know the children rather than bring in substitutes to be in charge who are less familiar with the children and their daily routines.

22 VAC 15-30-310. Staff orientation training and development.

C. Revise the standard to allow first aid training to be counted as part of the eight hours of annual training.

Justification: First aid training is as important as other training topics and may even be more beneficial to job performance, especially for bus drivers. First aid training should be recognized. Checking the historical background of the minimum standards, the American Red Cross was the main source of first aid training and eight hours were required for the first aid course. Best practice has changed over the years. The licensing standards have given more flexibility in allowing other organizations (such as the American Heart Association) to also provide training. Organizations have become more time sensitive to client needs. All first aid training and renewal of training no longer are required to be eight hours in length. Long term center employees often receive the same training over and over again. And not all employees are required to take first aid training. By allowing first aid training to be a part of the minimum annual training, it is probable that more employees will receive at least some first aid training during the course of the year. This regulation provides opportunity for greater safety for children in care by encouraging first aid training for more employees.

D. New language would make four changes: 1) require that only the staff person who is trained in medication administration be allowed to administer medications. A staff member would need to be on duty at all times who has annually obtained training in administering medicine from a physician, R.N., health department medical personnel or public health nurse, as well as have annual training in the daily health observation of children, 2) require training in the daily health observation of children to occur annually instead of at three-year intervals, 3) require the training

in administering medicine to occur annually and include certain topics, and 4) no longer require staff with training in the daily health observation of children to observe daily each child for signs and symptoms of illness.

Justification: The purpose of the standard is to reduce the risk of administering medication incorrectly and to give more consistent training of daily health observation. Trained individuals should administer medications. This brings child care into compliance with other unlicensed professionals who administer medication. It has been reported to the Council by the Department of Social Services that one of the frequent violations cited at centers relates to the administering of medications by staff persons. The standard is being changed to give more consistent training of daily health observation. Currently all staff receive orientation training regarding the center's policies related to administration of medications. Training is required for at least one person by a health professional in daily health inspections. By adding the training in medication administration, the person trained in daily health inspections can also be the person administering medications. Training for both areas may be done by the same health professional during the same training session; so there should not be a costly impact to centers. The purpose of this standard is to reduce the risk of administering medication incorrectly. The current standard is restrictive in that it requires the daily health observation of all children daily for signs and symptoms of illness.

#### PART IV. PHYSICAL PLANT.

22 VAC 15-30-320. Approval from other agencies; requirements prior to initial licensure.

D. This newly adds that camps must notify the responsible fire department and emergency medical service not only of location but also of hours of operation.

Justification: The closest fire department or emergency medical service may not be the responsible department/service. Providing the hours of operation may help the responding agency.

22 VAC 15-30-350. Hazardous substances and other harmful agents.

B. Create a new exception that does not require cleaning supplies for the diapering area to be kept in a locked place if these supplies are not accessible to children.

Justification: This standard is overly protective. It is not practical to have items constantly in use kept under lock and key when they are inaccessible to children. The current standard could actually create supervision problems if the supplies are not readily available to staff as needed. This change allows flexibility for centers who have the ability to provide the necessary safety while offering greater supervision for children by not requiring staff to leave the area.

E. Delete requirement that cleaning supplies and insecticides be stored physically separate.

Justification: The current standard is overly protective and not necessary. The meaning of “separate” is not clear. It allows flexibility for the center. It will also save new centers from the expense of having to find more than one storage area that is lockable.

22 VAC 15-30-360. General physical plant requirements for centers serving children of preschool age or younger.

1. Specify that these requirements apply only to “building” steps. Clarify that a barrier or guardrail needs to be on both sides of steps and a handrail needs to be on one side of steps.

Justification: This clarifies that these requirements do not apply to steps on equipment. The current post spacing complies with current building code.

3. Revise to require protective covers on electrical outlets to be in good repair.

Justification: This change protects the outlet as well as the child.

22 VAC 15-30-370. General physical plant requirements for centers serving school age children.

A. Revise the current standard so centers will automatically meet playground requirements when: 1) the center is located in a building approved for school occupancy, 2) the center is located in a building that houses a school during the school year, and 3) the center provides care only to school age children.

Justification: Schools and centers serving the same children at one location should not have two sets of playground requirements. This has caused concern and misunderstanding regarding the protection of children. Parents do not understand why the playground is deemed safe during the school hours and perhaps not as safe after school hours when supervision is greater and staff/pupil ratios are lower.

B. Revise to newly require portable camping equipment for heating or cooking that is not required to be approved by the building official to be used in accordance with the manufacturer’s specifications except for charcoal and wood burning cooking equipment.

Justification: This change provides greater safety. It also clarifies use according to the manufacturer’s specification

C. This change newly allows cooking or heating in tents if approved by the building official.

Justification: It allows cooking in new tents that are safe for heating and cooking.

22 VAC 15-30-380. Areas.

C. Revise requirement to allow children up to 36 months to be present on playground with infants and toddlers. Require a separate playground for infants and toddlers when children 36 months or older are present on the playground when infants or toddlers are present.

Justification: This change may favorably impact center costs. Commercial land is expensive. Considering the cost of commercial property, this change in regulation should reduce start-up costs for new centers.

The change provides greater safety. A two-year-old is safer with toddlers than with older pre-school and school age children. This clarifies that infants and toddlers may play anywhere on the playground if other ages are not present. This will allow children up to 36 months to play with infants and toddlers. Centers need to have a separate playground only when older children are present. This should help centers with limited outdoor space.

It increases flexibility in playground use for centers. Other states such as North Carolina have less stringent playground regulations that permit use of the sharing of playgrounds with other groups from other facilities when there is a separate play area or when children are present at different times. Public playgrounds have mixed age groups without required supervision. There is no known documentation that indicates sharing the same space with various age groups is unsafe. This change in the standard allows greater flexibility in land use. Safety issues can still be maintained by implementing time schedules for use.

D. Revise standard to no longer require the designated space for ill or injured children to be "separate."

Justification: The current regulation is too restrictive. Additional qualified staff may not be available to be with a child in a separate area without prior notice. Additional staffing and square footage requirements associated with the current standard is costly.

It removes the need for interpretation regarding what constitutes "separate." This standard is being changed to allow greater supervision and comfort of ill children by the caregiver. Children in the classroom have already been exposed to the illness. According to the National Network for Child Care in the Connects Newsletter on excluding sick children, Dr. Joseph W. Pankau states, "Germs may have already spread to other children via urine, stools, nasal drip, or saliva

before visible signs of illness appear. For example, cold germs can be spread a few days before a child shows symptoms of being sick. By the time the cold symptoms appear, isolating the child may not prevent the infection from spreading since other children have already been exposed." Isolating or segregating the child can create other emotional stresses for the child such as loneliness and/or adjustment to another caregiver or center employee.

22 VAC 15-30-410. Play Areas.

B. This standard is being revised to be consistent with § 63.1-196.3 B 6 of the Code of Virginia and the requirements for unlicensed centers. This standard will continue to require resilient surface (or cushioning material) under playground equipment but deletes the requirement to have a six inch depth of this material and for the material to encompass sufficient area to include the child's trajectory.

Justification: This change is being considered in response to the large number of complaints during public comment. While the revised language would no longer require resilient surface (or cushioning material) under playground equipment to have a six-inch depth or require that the material encompass sufficient area to include the child's trajectory, it does require centers to provide and maintain cushioning material under playground equipment. This regulation is being changed at the outcry of public comment. The current regulation which was introduced for the first time during the last revision of the minimum standards has created the greatest stir of concern of disagreement over interpretation by Licensing Inspectors in citing violations. For example, if a child swings and kicks out the mulch while swinging, the Licensing Inspectors may cite centers for not having the six inches of mulch, although there is sufficient mulch on the playground. It appears that common sense has not prevailed in citing centers. Public schools are not required to provide resilient surface (unless they seek full accreditation). Staff supervision on these public school playgrounds are at a less restrictive staff/pupil ratio.

There has not been a public outcry to "protect all children" in Virginia by requiring this type of stringent regulation. Testimony during the Public Comment Period at Council meetings has cited this regulation as one of the most costly to maintain without any significant protection to children. Centers are already highly regulated to provide sight and sound supervision to children. No supervision is required at public parks. In light of the fact that there appears to be great inconsistency among agencies, and that this costly regulation as written has been to the competitive disadvantage of licensed centers, the Council has rewritten the regulation to bring it in line with common practice of the public education system. There are no data available that indicate that children in licensed centers are at greater safety risks than those in unlicensed care or public schools. There are data available that indicate children are at greater risk in their own backyards.

D. Revise the standard to allow swings made specifically for a child with a disability even if it is made from non-flexible material.

Justification: This clarifies that molded swings may be of both flexible and non-flexible material. It also clarifies that swings made specifically for a child with a disability may be used regardless of material.

#### PART V. STAFFING AND SUPERVISION.

22 VAC 15-30-430. Supervision of Children.

I. (new) Requires that all children be supervised when leaving the center.

Justification: This will provide safety to children.

22 VAC 15-30-440. Staff-to-children ratio requirements.

A. Revise the standard to state that staff are to be counted in the staff-to-children ratios only when supervising children.

Justification: This clarifies the standard.

B. (new) This adds a standard that requires staff-to-children ratios be maintained on the premises but allows flexibility of ratios in classrooms to meet the needs of children, in instances such as but not limited to illness, toileting, escorting a child to the office, etc.”

Justification: This change allows staff to meet the needs of children. It is less burdensome and more flexible. In instances when staff becomes ill, the risk of infecting other children through exposure to disease is limited.

E. Change the staff-to-children ratios for children 24 months to 30 months from a 1:10 ratio to a 1:8 ratio.

Justification: This regulation is being suggested to add safety for this developing age group. Greater supervision adds greater opportunities for nurture. All of the ratios were examined and the only area that was changed was the ratio for children between the ages of 24-30 months, from a 1:10 to 1:8 ratio. The ratio for this age group was lowered based upon parent letters, the center survey, public comment, and research of other state ratios. In information obtained in a 1996 document from the Children's Foundation, 26 states had ratios of less than a 1:10 teacher/pupil ratio in this age group. This decrease in teacher/pupil ratio will have an adverse financial impact on those centers operating at a full 1:10 ratio. However, the Council feels that the change in this regulation will provide better staff supervision, and easier transitioning for those toddlers who

are moving from a smaller teacher/pupil ratio of 1:5 to larger groups with less restrictive ratios. This is a recommendation.

## PART VI. PROGRAMS.

### 22 VAC 15-30-451. Daily activities.

D. (new) This standard newly specifies that the daily activities for a child in a therapeutic child day program shall be in accordance with the program's individual plan for such child.

Justification: Clarifies that children who have an individual therapeutic program follow that program even if it is inconsistent with the general regulations.

### 22 VAC 15-30-461. Daily activities for infants.

1. b. Revise standard to require checking sleeping infants every 15-20 minutes.

Justification: The Virginia Department of Health representative felt the 30-minute time frame may be too long between checking young sleeping infants.

1. c. This standard is revised to allow an infant who falls asleep in a play space not his crib, cot, mat or bed to remain if he is comfortable and safe.

Justification: This standard is being changed to be consistent with 22 VAC 15-30-471 A 2 b. and in response to concern voiced in the survey sent to center operators. Clarifying the wording should help prevent misinterpretation of regulation.

4. g. (new) This requires infants who cannot turn themselves over and are awake to be placed on their stomachs a total of 30 minutes each day.

Justification: Research provided by the Council's Health Department representative showed an increase in misshapen heads as a result of placing infants in the supine position for prolonged periods. Research included "Back to Sleep" and "SIDS: Where We have Been and Where We are Now" by John Kattwinkel, M.D. presented on March 16, 2001, at the ASIP Annual Conference in Alexandria, Virginia. It states, "A certain amount of tummy time while the infant is awake and observed is recommended for developmental reasons and to help prevent flat spots on the occiput." A report by Jayesh Panchal found at jayesh-panchal@ouhsc.edu on Deformational Plagiocephaly states, "Over the past few years the incidence of asymmetrical head shapes in infants has increased significantly." This reports indicates the increase is a result of the "Back to Sleep" campaign to prevent SIDS. This report also recommends tummy time while the

infant is awake. The report found at [www.sciencedaily.com/release/1990/07/1990712080205](http://www.sciencedaily.com/release/1990/07/1990712080205) entitled "SIDS Prevention Tactic Leads to Epidemic of 'Misshappen Head' in Infants" states Nonsynostotic positional plagiocephaly has jumped fivefold: from an estimated 1 in 300 live births to 1 in 60 live births today.

22 VAC 15-30-471. Daily activities for toddlers and preschoolers.

A. 1. Revise to state the center's policy determines when the weather is appropriate for children to play outside.

Justification: This allows the center to clarify when the weather is not appropriate for children to play outside.

A. 2. b. Clarifies that when a toddler or preschool child falls asleep in a place other than his designated sleeping location he may remain there if he is comfortable and safe.

Justification: The change is to help clarify the standard and to prevent misinterpretation of standard.

22 VAC 15-30-484. Behavioral guidance.

C. (new) This adds "when a child causes an endangerment to himself or others, staff may take actions to physically restrain or remove the child, provided that such actions are consistent with the provisions of 22 VAC 15-30-487."

Justification: This standard is being added to address HB 1866 (2001) and to clarify specific actions and unsafe situations.

22 VAC 15-30 490. Parental involvement.

A. 6. Delete reference to "paid" staff.

Justification: This standard is being deleted in response to legal concerns about "paid staff."

E. 1. e. (new) Requires centers to document the amount of time certain infants (awake and can't turn over themselves) spend on their stomachs.

Justification: Information is needed by parents on a daily basis to help address misshappen head concerns.

E. 3. Revise standard to exempt short-term programs from requirement to make semiannual reports on child's development, behavior, adjustment and needs.

Justification: Reports may not be appropriate for short-term programs for recreation or entertainment.

22 VAC 15-30-500. Equipment and materials.

C. 2. Revise standard to state "s-hooks where provided may not be open more than the thickness of a penny."

Justification: Clarifies that the purpose is pinch point safety and not to have the s-hook shut.

D. Revise standard to allow climbing equipment for children under school age to be higher than seven feet if it is enclosed. Revise to allow materials that have been certified by the manufacturer to be shock-absorbing resilient material in accordance with the American Safety for Testing and Materials Standard 1292 when installed, maintained and replaced according to the manufacturer's instructions.

Justification: This change clarifies that the climbing portion may be higher than seven feet provided it is enclosed. To allow for padding and other materials other than padding that may be developed.

I. 1. This clarifies that play yards must meet Juvenile Products Manufacturers Association and American Society for Testing and Materials requirements "at the time they were manufactured" and newly prohibits use of recalled play yards.

Justification: This standard is being changed to be consistent with 22 VAC 15-30-510 H 1. Guidelines are continually updated. Recalled play yards are not safe.

I. 3. This allows play yards for sleeping but not for the designated sleep area.

Justification: This standard is being changed to be consistent with the change to 22 VAC 15-30-461 1 c.

I. 5. Revise standard so play yards shall be sanitized rather than cleaned.

Justification: This is only a change for clarity.

J. Revise standard to specifically require portable water coolers to be kept clean.

Justification: This clarifies that portable water coolers should be both clean and sanitized.

22 VAC 15-30-510. Cribs, cots, rest mats, and beds.

F. Revise standard to require that rest mats be sanitized weekly instead of between each use.

Justification: to be consistent with 22 VAC 15-30-520 C.

H. 1. This newly prohibits use of recalled cribs.

Justification: Recalled cribs are not safe.

M. (new) This prohibits the use of crib bumper pads.

Justification: Research reveals documented cases of death by children who were able to pull themselves up and had bumper pad in their cribs. Younger infants can suffocate from bumper pads.

22 VAC 15-30-520. Linens.

C. This standards continues to require that linens be clean/washed at least weekly and crib sheets be clean and washed daily but no longer requires them to be sanitized.

Justification: Crib sheets need to be washed not sanitized.

22 VAC 15-30-540. Swimming and wading activities; staff and supervision.

A. and B. This replaces “water safety instructor or senior lifesaver” with “certified life guard.”

Justification: There is a need to change language to reflect changes in level of certification.

22 VAC 15-30-550. Pools and Equipment.

D. Revise the standard to require water in portable wading pools to be changed after each group use instead of every day.

Justification: This standard is being recommended based on safety and health research. The Department of the Navy, Bureau of Medicine and Surgery Manual of Naval Prevention Medicine and Environmental Health Program (September, 1995) states that when children's wading pools are not properly maintained, they may provide a serious risk of disease transmission. "Young children are more likely than adults to contaminate and drink the water." While this standard is an increase in requirements, it is being considered to reduce risk of disease transmission.

22 VAC 15-30-560. Swimming and wading; general.

A. Revise the standard to require a center to have emergency procedures and written safety rules for swimming and to explain these procedures and rules to children only when swimming occurs on the premises.

Justification: This standard is being changed for clarity. Public swimming pools post their own rules.

C. Delete this standard.

Justification: This standard is covered by 22 VAC 15-30-430 E and F.

## PART VII. SPECIAL CARE PROVISIONS AND EMERGENCIES.

22 VAC 15-30-570. Preventing the spread of disease.

A. Delete this standard.

Justification: This standard is covered by 22 VAC 15-30-570 B.

B. 1. Revise the temperature for excluding children from 100°F to 101°F. Revise to refer to the Department of Health's (DOH) definition of "communicable disease" instead of referring to DOH's communicable disease chart. No longer allow a contraindication by the child's physician concerning the exclusion of the child.

Justification: The temperature exclusion is in accordance with current medical thinking. The use of DOH's definition makes allowances for individual circumstances. Also, the regulation would

not need to be revised to update the communicable disease chart since this document is incorporated by reference.

D. Revise the standard to refer to DOH's definition of "communicable disease" instead of referring to DOH's communicable disease chart.

Justification: The use of this definition makes allowances for individual circumstances. Also, the regulation would not need to be revised to update the communicable disease chart since this document is incorporated by reference. The wording is more positive.

D. (new) This requires that whenever a surface has been contaminated with bodily fluids it must be both cleaned and sanitized.

Justification: This will provide greater health and safety.

22 VAC 15-30-575. Hand washing and toileting procedures.

A. 1. Revise standard to allow the use of disposable wipes before and after meals and snacks but not after toileting and contact with blood, urine or feces as an acceptable hand washing method for children. Clarifies that running water is required but makes an exception if individual basins of clean water are used. Change contact with "body fluids" to contact with "blood, urine or feces" as one of the required times for children to wash their hands.

Justification: This standard is being considered for health and safety reasons. There is a need for the suds from soapy water to remove germs. Centers may not have a sink in each classroom. With regards to universal precautions, the standard lists the body fluids that specifically need good hand washing.

A. 2. Deletes the use of a germicidal cleansing agent as an acceptable hand washing method for staff. Clarify that running water is required for hand washing.

Justification: A germicidal is not recommended for hand washing purposes.

B. 1. This standard no longer specifically requires staff-to-children ratios to be maintained during diapering when the diapering area is not located in the classroom.

Justification: New language clarifies the standard and allows flexibility to meet the children's needs.

B. 2. b. Revise standard to require soap in the diapering area instead of having the option to have soap or a germicidal cleaning agent.

Justification: To be consistent with the change to 22 VAC 15-30-575 A 2.

B. 2 .c. Revise standard to require use of the specified, nonabsorbent surface for diapering and changing.

Justification: Prohibits diapering on a surface that cannot be cleaned. To assure that diapering children younger than three years of age does not occur on the bare floor or an unstable surface.

B. 2. e. Revise standard to specify that the covered receptacle for soiled linens must be leak proof.

Justification: Clarifies the standard.

B. 3. Revise standard to no longer specify that disposable wipes or a sanitized wash cloth must be used to clean the child when diapering a child.

Justification: This new standard provides flexibility.

B. 6. Revise standard to require the diapering surface to be both cleaned with soap and at least room temperature water and sanitized after each use instead of using one or the other of these substances.

Justification: This recommendation is to assure surface is cleaned and sanitized. According to the Center for Disease Control, "Routine cleaning with soap and water is the most useful method for removing germs from surfaces in the child care setting." . . . "However, some items and surfaces should receive an additional step, disinfection, to kill germs after cleaning with soap and rinsing." This standard is being strengthened to provide additional safety to children.

22 VAC 15-30-580. Medication.

A. This newly requires that only the staff person who is trained in medication administration may administer medications.

Justification: This standard is being considered to reduce the risk of administering medication incorrectly. Trained individuals should administer medications. This brings child care into compliance with other unlicensed professionals who administer medication.

B. 2. This standard newly requires the center's procedures for administering medications to be consistent with the manufacturer's instructions for age, duration and dosage.

Justification: This standard is being changed for clarity.

B. 3. Allow authorization for over-the-counter medication to exceed 10 work days under certain circumstances.

Justification: This is changed to permit use of long term medication without undue hardship to parents.

G. This no longer requires prescription medication to be kept in a locked place when a written order from a physician designates otherwise.

Justification: Certain emergency medications need to be immediately available.

J. Revise standard so when a medication authorization expires the parent must be notified that he needs to pick up the medication instead of the current requirement of returning the medication to the parent when the medication is no longer being administered.

Justification: A parent may not be in the center on that day to pick up the medication.

22 VAC 15-30-585. Over-the-counter skin products. (new)

A. This newly addresses the use of sunscreen, diaper ointment and insect repellent. The following requirements apply to the use of sunscreen: 1) there must be written parent authorization that notes any adverse reactions to sunscreen, 2) sunscreen must be inaccessible to children under five years of age and children in therapeutic care/special needs care, and 3) any sunscreen provided by the center must be hypoallergenic and have a minimum sun protection factor (SPF) of 15.

Justification: This is to address comments outside of the survey and public comment period requesting clarity. The standard addresses the low toxicity of these products (according to the poison control center) and the high frequency of use of these products.

B. The following requirements apply to the use of diaper ointment or cream: 1) there must be written parent authorization that notes any adverse reactions to diaper ointment or cream, 2)

diaper ointment or cream must be inaccessible to children, and 3) records are kept as to frequency of application and any adverse reactions.

Justification: This is to address comments outside of the survey and public comment period requesting clarity.

C. The following requirements apply to the use of insect repellent: 1) there must be written parent authorization that notes any adverse reactions to insect repellents, 2) insect repellent must be inaccessible to children, 3) records are kept as to frequency of application and any adverse reactions, and 4) the manufacturer's instructions for age, duration, and dosage must be followed.

Justification: This is to address comments outside of the survey and public comment period requesting clarity. The standard addresses the high frequency of use of these products.

22 VAC 15-30-600. First aid and emergency supplies.

D. 1. Require both syrup of ipecac and activated charcoal preparation instead of only one of these products.

Justification: In cases of accidental poisoning, it may be necessary to use either syrup of ipecac or activated charcoal preparation as treatment.

22 VAC 15-30-610. Procedures for emergencies.

A. 5. (new) This requires the emergency evacuation plan to address accessibility of parent contact information.

Justification: There is a need to know how to notify parents when an evacuation occurs.

F. Delete the requirement to have a private automobile available for emergencies if ambulance service is not readily available within 10 to 15 minutes.

Justification: It is not appropriate for a lay person to transport an ill or injured child.

G. Revise standard so minor injuries are treated as significant injuries (requirements regarding record keeping and notification to parents by the end of the day must now be met). Concerning injury documentation, newly require documentation on how parents were notified and staff and parent signatures.

Justification: This standard requires notification to parents of injuries that may need future intervention. To respond to public comments.

H. Revise standard to specify that camps must have an emergency plan.

Justification: This brings the standard more in line with other standards.

## PART VIII. SPECIAL SERVICES.

22 VAC 15-30-620. Nutrition and food services.

F. 1. Revise standard to refer to “nutritional requirements of a recognized authority such as USDA” instead of the specific program entitled Child and Adult Care Food Program of USDA. Delete the requirement that the most recent nutritional guidelines be used.

Justification: This standard is being changed so it does not specify a specific document.

G. 1. This newly requires the food container from home to be sealed and dated.

Justification: This is a health and safety issue and helps assure food is safe to consume.

G. 3. Clarifies that unused “open” food from home shall be discarded by the end of the day or returned to parents.

Justification: This language brings clarity to the standard.

I. Revise this standard to assure food is stored and transported in a clean and sanitary manner (not just prepared this way).

Justification: This change is being made to address health and safety issues when food is transported.

22 VAC 15-30-630. Special feeding needs.

E. This newly prohibits milk, formula or breast milk from being heated or warmed directly in a microwave (but allows water for warming milk, formula or breast milk to be heated in a microwave).

Justification: Bottles of formula heated in microwave ovens have caused burns to infants when the contents reach a higher temperature than the exterior of the bottle.

F. This newly prohibits formula and breast milk from remaining unrefrigerated for more than one hour.

Justification: Reused formula can spoil because the milk has been contaminated with saliva and bacteria. This is especially true if the bottle is out of refrigeration for the first feeding for an hour or more and then reheated.

I. This clarifies that a physician's designee may also provide written instructions to specify that semisolid food does not need to be served with a spoon.

Justification: This standard is being revised to have consistent use of terms in the regulation.

22 VAC 15-30-640. Transportation and field trips

K. This newly requires staff to verify that all children have been removed from the vehicle.

Justification: This is a safety issue. There is a need to supervise children.

22 VAC 15-30-650. Transportation for nonambulatory children.

B. This newly requires wheelchairs for transportation to be equipped with restraining devices.

Justification: This standard is being revised to allow for other types of restraint devices.

**Family Impact Statement**

*Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.*

1) According to a recent study, Senate Document Number 4, entitled A Study of the Quality, Affordability and Accessibility of Child Care in the Commonwealth of Virginia (2000), "a large majority of consumers report they are satisfied with the quality (95%), prices (80%),

accessibility (75%) and availability (69%) of child care services offered in Virginia." This regulation should strengthen the authority and rights of parents since this regulation establishes minimum standards that impact the education, nurturing and supervision of their children in out of home care.

2) This regulation encourages economic self-sufficiency, self-pride and the assumption of responsibility for oneself and one's children by helping parents locate safe and appropriate child care so they can work to support themselves.

3) This regulation has no intended impact on marital commitment. If there should be any unintended impact, it should be positive in that parents have the assurance that a minimum level of protection is provided to their children in licensed child day centers.

4) This regulation has no intended impact on disposable family income. This regulation should help parents locate safe and appropriate child care, which may allow parents to work and bring in additional income. At the same time, the cost for centers to comply with the standards could be passed on to parents in terms of higher fees. Some of the changes will result in cost savings to centers.