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## Final Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	22VAC40-111
<b>Regulation title(s)</b>	Standards for Licensed Family Day Homes
<b>Action title</b>	Amend Standards for Licensed Family Day Homes to Address Federal Health and Safety Requirements
<b>Date this document prepared</b>	December 13, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation.*

This regulation provides criteria for the public and Department of Social Services to evaluate the safety of care that children receive in licensed family day homes. The existing regulation, 22VAC40-111, in effect since 2010, has undergone two revisions. This regulatory action is proposed to address specific new federal health and safety requirements to be implemented as soon as possible.

The Child Care and Development Block Grant Act (CCDBG) of 2014 requires health and safety topics to be addressed for providers receiving Child Care and Development Funds. The intent of amending the Standards for Licensed Family Day Homes is to align requirements of licensed programs with requirements for providers receiving Child Care and Development Funds. Amending the existing regulation to reflect federal health and safety standards will provide additional protections of the health, safety, and welfare of children in care.

## Acronyms and Definitions

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

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The Child Care and Development Block Grant Act of 2014: CCDBG  
Cardiopulmonary resuscitation: CPR  
Virginia Department of Social Services: DSS

## 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.*

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On December 13, 2017, the State Board of Social Services approved the final action to amend the regulation Standards for Licensed Family Day Homes.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.*

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Sections 63.2-100, 63.2-203, 63.2-217 and 63.2-1734 of the *Code of Virginia* provide the legal authority for the State Board of Social Services (SBSS) to adopt regulations and requirements for licensed family day homes. The *Code of Virginia* mandates promulgation of regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed...which shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies. Section 63.2-1734 further 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 and other persons to be maintained, cared for, or placed out 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 adopting of a specific teaching approach or doctrine or require the membership, affiliation, or accreditation services of any single private accreditation or certification agency.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe 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.*

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In accordance with § 2.2-4007.01 of the Code, the State Board of Social Services intends to consider amending current Standards for Family day homes, 22VAC40-111, to revise current regulations and incorporate new standards that reflect federal health and safety requirements.

The planned regulatory action seeks to update the regulation and align it with new federal requirements described in the CCDBG Act of 2014. Adding these federal health and safety requirements is essential to protect the health, safety, or welfare of citizens.

The goals of this proposed action are: (i) to update regulations to comply with new federal requirements for child care providers; (ii) to update current licensing regulations to ensure consistency with requirements for Child Care and Development Fund recipients; and (iii) to present a clearly written regulation that reflects current federal guidelines and practices in child care. Amendment of the existing regulation was determined by the State Board of Social Services as the most efficient and effective way to make the necessary changes to achieve clarity, consistency, and to protect children.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.*

Provisions included in the amended standards to be considered include revisions to address federal law changes that necessitate the development of new standards in current areas as well as areas not previously considered to address ever-changing national health and safety guidelines and practices. Substantive amendments to the regulations include but are not limited to the following areas:

1. Grace period for immunization requirements for homeless/foster care children
2. Prevention of and response to emergencies due to food and allergic reactions
3. Prevention of shaken baby syndrome and abusive head trauma
4. Revised emergency preparedness plan requirements
5. Orientation training for all caregivers with content including health and safety requirements
6. Updated annual training requirements to include suggested health/safety topics
7. Revised cardiopulmonary resuscitation (CPR) and first aid training requirements
8. Updated night time care requirements
9. Additional capacity requirements for family day homes approved as subsidy vendors, and enrolling children age 13 or older

## 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 advantages of the proposed regulatory action are to ensure that parents have sufficient information to make informed decisions when choosing to place their child in licensed family day homes that incorporate new standards that reflect federal health and safety requirements. The new regulations ensure consistent requirements for Child Care and Development Fund recipients.

The proposed regulatory action requires all child care providers to have current certification in cardiopulmonary resuscitation (CPR) and first aid, which increases the health and safety of all children in care. The total number of orientation and annual training hours will increase for all providers to strengthen their professional development.

The advantage to the Commonwealth is that the proposed action increases protections of the health, safety and welfare of children receiving care in licensed family day homes. Additionally, the proposed changes promote consistency with other child care regulations. There are no disadvantages to the Commonwealth.

### Requirements more restrictive than federal

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

The Child Care and Development Block Grant Act of 2014 include health and safety requirements for child care programs that receive child care Child Care Program 22VAC40-665. Child Care and Development Block Grant requirements can be found in the U.S. Code at <https://www.law.cornell.edu/uscode/text/42/chapter-105/subchapter-II%E2%80%9393B> and in the Code of Federal Regulations at <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=11d1dedba284f82bd70d5149d7fcc28c&ty=HTML&h=L&mc=true&r=PART&n=pt45.1.98>. Changes in this regulation, 22VAC40-111, are proposed in order to align requirements for licensed family day homes with these federal requirements, as well as to improve protections to children. No requirements in this regulation exceed federal requirements.

### Localities particularly affected

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

No locality is particularly affected by the proposed regulation.

### Family impact

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The changes to the regulation will strengthen the protections and increase the health and safety for children in care. The changes to the regulation should not have an impact in encouraging or discouraging

economic self-sufficiency, assumption of responsibility, or marital commitment. Disposable family income may be increased or decreased if the cost of child care changes as a result of this action, depending on the family's choice of child care options.

**Changes made since the proposed stage**

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. \*Please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	Incorporates definitions within the current regulation.	<p>'High school program completion or equivalent.' - Removed code citations for the Department of Education equivalency examination in this definition.</p> <p>Adds to the definition of 'homeless child' a child who is abandoned in a hospital.</p>	<p>These Code citations are not needed in this definition.</p> <p>Adds language to be consistent with Child Care Program 22VAC40-665 and Standards for Licensed Child Day Care Program 22VAC40-185.</p>
*30	<p>Required operational responsibilities include completing background checks.</p> <p>Provider required to post allergy information.</p> <p>None</p>	<p>Code reference for background checks changed.</p> <p>Revised language requires caregivers to be notified of allergies.</p> <p>Written list of allergies, sensitivities and dietary restrictions to be maintained, dated, and kept confidential.</p>	<p>Change made to be consistent with 2017 changes in the Code of Virginia.</p> <p>Change made to ensure all caregivers are aware of children's allergies for their protection.</p> <p>Added to ensure confidentiality of allergy and health information.</p> <p>Changes made to be consistent with the CCDBG requirements.</p>
*40	No changes to this section were proposed.	Adds additional capacity requirements for family day homes approved as subsidy vendors, and enrolling children age 13 or older.	This requirement will ensure that all children, including children age 13 or older, receive the same health and safety protections if the home is approved for the subsidy program. The requirement was also added to be consistent

			with Child Care Program 22VAC40-665 and to ensure protection of all children enrolled in the subsidy program.
50	Requires the provider to keep their records required by the regulation either in hard copy or electronically.	The term 'regulation' was removed and replaced with 'chapter.'	Language change for clarification.
*70	No changes to this section were proposed.	<p>Adds requirement to disclose to parents that homes built prior to 1978 may have lead hazards.</p> <p>Immunization information required to be provided to parents was changed. The word, 'adequately' was removed from the phrase, 'adequately immunized.'</p> <p>Language clarifies that inspection compliance history on the website is maintained for five years.</p>	<p>Recommendation from Virginia Department of Health to ensure that parents know of potential lead exposure.</p> <p>Change made to be consistent with the same phrase in 22VAC40-111-90.</p> <p>Language added for clarification to indicate how long inspection results appear on the website. This clarification helps parents to know how far back inspection history is posted on the website, allowing them to be better informed about health and safety compliance.</p>
100	A new physical is not required if a copy of the previous physical is available for children that have attended a licensed program, voluntarily registered program, or a program approved by the Department of Education.	The phrase 'or approved by the Virginia Department of Education' is removed.	The Virginia Department of Education no longer approves school based programs. Change made due to Code changes requiring programs to be licensed by DSS.
170	No changes to this section were proposed.	<p>The term 'hire' was removed and replaced with 'employment'</p> <p>'Report of Tuberculosis Screening' on a physician's form added as an option for tuberculosis screening documentation.</p>	<p>Language changed for consistency throughout the regulation.</p> <p>Language changed due to updated guidance from Virginia Department of Health and for consistency with Child Care Program</p>

<p>*200</p>	<p>Orientation requirements.</p> <p>VDSS orientation course to be completed in 90 business days of employment.</p> <p>The provider shall orient the substitute and assistants within seven days of the date of hire.</p> <p>Orientation to medication administration policies and procedures.</p> <p>Orientation topics, to be covered within seven calendar days.</p> <p>Orientation topics required to be covered in first 30 days.</p>	<p>Adds that orientation areas should be appropriate to the age of children for which the provider is licensed.</p> <p>‘Business’ days was changed to ‘calendar’ days. Clarification is added indicating that this class counts toward hourly orientation requirements.</p> <p>The term ‘hire’ was removed and replaced with ‘employment’</p> <p>Adds ‘if applicable.’</p> <p>Adds the following topics: playground safety procedures; supervision of child, including check in and check out procedures and procedures for action in the case of lost or missing children, ill or injured children, medical and general emergencies; transportation and; caregivers who work with children that have food allergies shall receive training in preventing exposure to food(s) to which the child is allergic, preventing cross-contamination, recognizing and responding to any allergic reactions.</p> <p>Clarification added that this reference is about 30 ‘calendar’ days.</p>	<p>22VAC40-665.</p> <p>This requirement will increase caregiver’s knowledge of children’s chronological and developmental needs. Change made to be consistent with the CCDBG.</p> <p>Change made for clarity and to make it easier for providers and inspectors to determine compliance. Clarification made so that it is clear that the orientation class is part of the 16 hours of orientation required in 22VAC40-111-200 A.</p> <p>Language changed for consistency throughout the regulation.</p> <p>Clarification added, as not all providers choose to administer medication.</p> <p>These topics will expand caregiver knowledge of children’s health and safety needs and improve the quality of childcare. Topics added to be consistent with the CCDBG</p> <p>Change made for clarity and to make it easier for providers and inspectors to determine compliance.</p>
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	<p>Building and physical premises safety topics to be covered in the first 30 days.</p>	<p>Topics about prevention of allergic reactions and transportation moved to the subsection about orientation topics required within 7 days.</p> <p>Adds 'lead and mold issues.'</p>	<p>Change made to ensure topics covered in the first week due to health and safety needs of the children in care.</p> <p>Virginia Department of Health recommendation, to ensure that caregivers are aware of health concerns related to lead and mold, thus better equipping caregivers to reduce the risks of mold and lead for children in care.</p>
*210	<p>Caregivers shall complete 20 hours of training annually.</p> <p>Annual training shall include relevant topics.</p> <p>Health and safety training topics listed and to be completed every two years.</p> <p>Building and physical premises safety is listed as a suggested topic for annual training.</p>	<p>Adds language clarifying that annual training is in addition to completing orientation training requirements in 22VAC40-111-200 A-E.</p> <p>Adds language introducing a list of possible topics for annual training.</p> <p>Removes the requirement that the following topics be covered every two years.</p> <p>Adds 'lead and mold issues.'</p>	<p>Clarification added so that providers know that orientation training and annual training are separate training requirements.</p> <p>Clarification added so that the provider has a list of topics that are suggested to be covered in annual training, but the topics are not required to be covered each year.</p> <p>Change made to be consistent with the CCDBG and Standards For Licensed Child Day Centers 22VAC40-185.</p> <p>Virginia Department of Health recommendation, to ensure that caregivers are aware of health concerns related to lead and mold, better equipping caregivers to reduce the risks of mold and lead for children in care.</p>
220	Medication administration	'Nurse practitioner, physician	Language added to be



	training.	assistant' added to the approved teachers for medication administration training.	consistent with language in the Drug Control Act § 54.1-3408 and Standards For Licensed Child Day Centers 22VAC40-185. This additional language will expand resources available to provide medication administration training.
230	Documentation of each training topic required in ongoing training must be kept.	Documentation of each topic in orientation training and documentation of all ongoing training is required.	Change made for clarification. Training topics are required for orientation but specific topics are not required for ongoing training.
280	No changes to this section were proposed.	Adds a requirement for hazardous substances not stored in original containers to be clearly labeled.	Change made to protect children's health and safety and to be consistent with Child Care Program 22VAC40-665.
530	No changes to this section were proposed.	Adds the requirement that linens shall be appropriate to the temperature and other conditions of the rest area.	Language added to address children's comfort and to be consistent with Child Care Program 22VAC40-665.
650	Adds a requirement to notify a parent immediately of any confirmed or suspected allergic reaction and the ingestion of any prohibited food even if a reaction did not occur.	Clarifies that a prohibited food is any food identified in the written care plan required in 22VAC40-111-60.B.2.f	This clarification explains that prohibited foods are foods described in the allergy care plan in the child's record.  Language added to be consistent with the CCDBG and Standards For Licensed Child Day Centers 22VAC40-185.
700	No changes to this section were proposed.	Administration of nonprescription medication is limited to caregivers age 18 or older.  The exception that long term medication may be allowed with written authorization from the child's physician and parent is	Adds a requirement that all medication (prescription and nonprescription) can only be administered by caregivers age 18 or older.  The 'EXCEPTION' header is removed from this exception; the exception remains the same. Change made to

		<p>indicated with the header 'EXCEPTION.'</p> <p>The provider is to notify the parent to pick up medication for which an authorization has expired or the parent must renew the authorization.</p>	<p>be consistent with Standards For Licensed Child Day Centers 22VAC40-185.</p> <p>Clarifies that the authorization must be renewed after 14 days or the medication picked up from the program. Change made to be consistent with Standards For Licensed Child Day Centers 22VAC40-185.</p>
720	No changes to this section were proposed.	Removes requirement that nonprescription medication be administered by a caregiver 18 years of age or older and moved to section 700.	Requirement moved to section 700 for clarification.
780	No changes to this section were proposed.	Emergency information reference to emergency medical care was changed from 22VAC40-111-60 B 8 to 22VAC40-111-60 B 6	Change made for consistency in the regulation.
*810	<p>Evacuation procedures to include methods to ensure essential documents, including emergency contact information, medications, and supplies are taken to the assembly point and relocation site;</p> <p>None</p>	<p>Adds that essential documents also include attendance records, parent contact information, information on allergies and intolerance to food or medication.</p> <p>Adds that methods to ensure any special healthcare needs to include medications and care plans; emergency contact information for staff; and supplies are taken to the assembly point or relocation site</p>	<p>These changes will protect children's health and safety and address children with special healthcare needs. They also promote the caregiver's accountability of children during emergencies that require evacuation and relocation</p> <p>Language added to protect children and to be consistent with the CCDBG and Child Care Program 22VAC40-665.</p>
*820	Shelter-in-place procedures to include methods to ensure essential documents, including emergency contact information, medications, and supplies are taken to the assembly point and relocation site;	Adds that essential documents also include attendance records, parent contact information, and information on allergies and intolerance to food or medication.	<p>This requirement will enable staff to account for each child's health and safety in an emergency in addition to readily be able to contact parents during an emergency.</p> <p>Language added to be</p>

	None	Adds that methods to ensure any special healthcare needs to include medications and care plans; emergency contact information for staff; and supplies are taken to the assembly point or relocation site.	consistent with the CCDBG and Child Care Program 22VAC40-665.  This requirement ensures the continuity of care during an emergency for children with special healthcare needs  Language added to be consistent with the CCDBG and Child Care Program 22VAC40-665.
850	The provider shall inform the department's representative as soon as practicable, but not to exceed two business days, of any injury to a child while under the home's supervision.	Deletes 'serious' and clarified that injuries 'when a referral is made for treatment from a medical professional' must be reported to DSS.	Language added for clarification and to be consistent with Code definition of 'serious injury' and requirements.
870	Caregivers who prepare and serve food to children, or supervise meals, shall be aware of the food allergies, sensitivities, and dietary restrictions for each child.  Caregivers shall not serve prohibited food to a child	Requirement moved to 22VAC40-111-30 G-H  Requirement clarified to explain that a child with a food allergy should not be served food described in the written allergy plan in 22VAC40-111-60.B,2,f.	Change made for clarity.  Change made to protect children from being served food to which they are allergic. Change also made for consistency with CCDBG.
*1020	No changes to the section were proposed.	Requirements added for the following: Bath towels shall be assigned for individual use. Mattresses shall have at least one inch of padding to be used by children who sleep more than two hours. A tub or shower with heated and cold water shall be provided.	These new requirements will increase comfort for children receiving nighttime care and reduce the spread of disease. Language also added to be consistent with the Child Care Program 22VAC40-665.

**Public comment**

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

Commenter	Comment	Agency response
Betty Jones	I would like for home daycare to be able to have more kids and that pay grades be raised higher. In our areas we have a higher demand for daycares and we just don't have them and we need to be able to have the places for kids to go and we don't. I have been asked by a lot of people to take their kids and I have to turn them away because of the inability to have more kids here and not that I can't do it I can and would like the opportunity to do just that. thank you	No change will be made. The capacity of a family day home is defined in the Code of Virginia at § 63.2-100.
Virginia Byerson, Whispers of Love, Inc	<p>There should be strict guidelines on the care-giver-to-child ratio as not to cause or create a volatile environment.</p> <p>Background checks should be required on each worker involved with the children.</p> <p>Care-givers should not be allowed to take visitors when on duty</p> <p>Funds issued by federal CCDBG Act should require certain stipulations that give account for the spending of those funds.</p> <p>Television viewing should be limited for children during the time spent in home daycares.</p>	<p>No change will be made. Ratios and the point system, which determines the need for an additional caregiver, are described in 22VAC40-111-570 and 22VAC40-111-620.H.</p> <p>No change will be made. Background checks are currently required for each caregiver in a family day home.</p> <p>No change will be made. 22VAC40-111-560 requires that a caregiver be physically present on site and provide direct care and supervision of each child at all times.</p> <p>Funds issued by the federal CCDBG Act are beyond the scope of this action. Child Care Program 22VAC40-665 requirements are found in 22VAC40-661.</p> <p>No change will be made. 22VAC40-111-610.A describes media use limitations.</p>
Azeem daycare home	When we need to include the programs that could prepare the Early Childhood children for kindergarten	Comment is unclear. No change will be made.

	<p>Readiness the community should be open for all the children that do not belong to the community but the part of the park should be free from hazards and safe from the killer kidnappers inside the daycare or held in women should be implemented as strictly on the kill of us the book the bathroom and the play places should be fully equal sanitizers and antibacterial soaps need to need approve the educational and more and more to approve the behavior of the children should be strictly employee air and implemented.</p>	
<p>Monica Jackson, Chairman of the Fairfax County Child Care Advisory Council</p>	<p>In reference to 22VAC40-111-60, we hope that the state will provide appropriate guidance and resources for family child care providers, families, and health care practitioners to develop and implement their care plan.</p> <p>In reference to 22VAC40-111-210-C, we recommend that ample opportunities be offered throughout the state for family child care providers to access these professional development opportunities.</p> <p>We support standards that strengthen the health and safety of children in care, we remain concerned that many new regulations present an added cost to family child care providers.</p>	<p>Technical assistance and guidance will be provided on allergy care plans.</p> <p>No change will be made. The VDSS TIPS (Training Information for Provider Success) Calendar can be accessed as a resource for provider training. This calendar can be found at this link: <a href="http://www.dss.virginia.gov/family/cc_providertrain/tips.cgi">http://www.dss.virginia.gov/family/cc_providertrain/tips.cgi</a>. VDSS offers a free ten-hour course entitled, "Virginia Preservice Training" that covers many orientation training topics.</p> <p>VDSS recognizes that in trying to raise the quality of care for children, the provider may incur additional minor costs.</p>
<p>Sarah Gerome, Hillside School</p>	<p>I totally agree with revision to let a past authorized VA state physical form stand as sufficient. *22VAC40-111-210. <del>Annual</del> Ongoing training. This solution is glossing over the real need. Increasing the total number</p>	<p>No change is needed. VDSS is raising the quality of child care by expanding the list of required training topics. The TIPS Calendar provides training classes, and can be found at this link: <a href="http://www.dss.virginia.gov/family/cc_providertrain/tips.cgi">http://www.dss.virginia.gov/family/cc_providertrain/tips.cgi</a></p>

	<p>of hours of annual training for experienced teachers is not practical nor is it affordable. Increasing from 16 to 20 hours of annual training is not a real solution to what is needed for family day home providers. The hours most FAMILY DAY HOME providers work (8 AM - 6 PM, Mon-Fri) make it nearly impossible to take a class during the week. Hiring a substitute is too expensive, considering the low income of the average FAMILY DAY HOME. Weekends are dedicated to cleaning, maintenance, and curriculum.</p> <p>What would be more helpful would be hands-on guidance in each individual setting. For example, each licensing inspector could offer individualized step-ups/improvements based on what is available already and/or what is needed.</p>	
<p>Aisha Bhatty</p>	<p>To ensure the safety of all the children, it should be required by law for all providers to be held accountable to the standards going forward. No provider or caregiver should be exempt when it comes to planning for the health, safety, and emergency preparedness for our children.</p> <p>Additionally, training opportunities should be offered in the evening or weekend so that a standard of care can be maintained.</p> <p>In reference to 22VAC40-111-60-B-2-F, the proposed amendments need to be specific and provide clear interpretation and guidance of the new standards. Active</p>	<p>Code requirements specify which family day home providers are subject to licensure and which providers fall below the licensure threshold. It is beyond the scope of this action to propose requirements for family day home providers that are not subject to licensure.</p> <p>VDSS is raising the quality of child care by expanding the list of required training topics. The TIPS Calendar provides training classes, and can be found at this link: <a href="http://www.dss.virginia.gov/family/cc_providertrain/tips.cgi">http://www.dss.virginia.gov/family/cc_providertrain/tips.cgi</a>.</p> <p>Technical assistance and guidance will be provided when the regulation becomes effective.</p>

	<p>links which provide resources like scholarship information and trainings would also be beneficial.</p>	
<p>Allen Knapp, Director, Office of Environmental Health Services, Virginia Department of Health</p>	<p>Virginia Department of Health staff reviewed the proposed amendments to 22VAC40-111, and would like to offer some comments and recommended changes.</p> <p><b>22VAC40-111-200. Orientation.</b></p> <p>E. The provider shall orient the substitute provider and assistant by the end of the first 30 days of assuming job responsibilities in the following topics:</p> <p>3. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, vehicular traffic, and exposure to environmental toxins such as lead and mold.</p> <p><b>22VAC40-111-210. Annual Training.</b></p> <p>C. Training on the following health and safety topics shall be completed every two years:</p> <p>7. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, vehicular traffic, and exposure to environmental toxins such as lead and mold.</p> <p><b>22VAC40-111-350. Water Supply.</b></p> <p>F. A first morning sample</p>	<p>Agency agrees. This language was added to 22VAC40-111-200.E.3. This issue will be clarified in training and technical assistance.</p> <p>Agency agrees. This language was added to 22VAC40-111-210.C.7. This issue will be clarified in training and technical assistance.</p>

	<p>from any faucet where cooking or drinking water is obtained shall be tested for lead and not exceed the EPA action level of 15 ppb. If a private well is the cooking or drinking water source, a series of lead tests shall be performed according to the <i>Virginia Quality Assurance Project Plan</i> (VDH) and no sample shall exceed 15 ppb. Private wells also require a nitrate test be performed in accordance with 12VAC5-630-370 and not exceed 10 mg/L of nitrate (as N).</p> <p><b>22VAC40-111-240. Home Maintenance.</b></p> <p>A. Areas and furnishings of the family day home, inside and outside, shall be maintained in a clean, safe, and operable condition. Unsafe conditions shall include, but not be limited to, the presence of poisonous plants; tripping hazards; unstable heavy equipment, furniture, or other items that a child could pull down on himself; splintered, cracked, or otherwise deteriorating wood; chipped or peeling paint; visible cracks, bending or warping, rusting, or breakage of any equipment; head entrapment hazards; and protruding nails, bolts, or other components that could entangle or could snag skin; and lead exposure hazards.</p> <p>B. A lead risk assessment shall be performed by a Virginia Department of Professional and Occupational Regulation (DPOR) licensed individual or firm on any house built before 1978. If lead hazards</p>	<p>No change needed. Already addressed in Virginia Department of Health regulation. Additionally, 22VAC40-111-350 requires that houses not connected to a municipal sewer line, the water supply and septic system of the family day home shall be inspected and approved by the local health official or a private laboratory if there are open and obvious symptoms of water or sewage system problems.</p> <p>No change will be made. The technical assistance for 22VAC40-111-240 addresses lead exposure hazards.</p> <p>This recommendation would add a financial burden to the licensee. The technical assistance for 22VAC40-111-240 already addresses lead exposure hazards.</p>
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	<p>are identified then abatement or interim control must be completed by a DPOR licensed lead worker Title 54.1, Chapter 5, (18VAC15-30) or EPA certified individual or firm (TSCA Section 402(c): Lead Renovation, Remodeling, and Painting Rule. If interim controls are used, then a maintenance plan must be developed and followed with documentation.</p> <p>C. Families considering placement for their children, must receive prior disclosure that lead hazards may exist in the house if built before 1978, unless certified lead-free.</p>	<p>Agency agrees there should be disclosure for homes built prior to 1978. Change made in 22VAC40-111-70, to require, for homes built prior to 1978, a disclosure to parents indicating that there may be lead hazards.</p>
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**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
10		Incorporates definitions within the current regulation.	<p>Definitions for the following terms are added: Homeless child, lockdown, shaken baby syndrome or abusive head trauma.</p> <p>Definitions for the following terms are amended to clarify their use in the body of the regulation: Child with special needs, high school program completion or the equivalent, sanitized, and serious injury.</p> <p>All amendments in this section add clarification and ensure consistency with new federal requirements pursuant to the CCDBG and the Code of Virginia.</p>
30		Required operational	Code reference for background checks

		<p>responsibilities include completing background checks.</p> <p>None</p> <p>None</p>	<p>changed. Change made to be consistent with 2017 changes in the Code of Virginia.</p> <p>Adds requirements that caregivers be notified of allergies of children in care.</p> <p>Adds written list of allergies, sensitivities and dietary restrictions to be maintained, dated, and kept confidential for caregivers to have this information readily available.</p> <p>New requirements increase the protection of children in care with allergies and sensitivities and allow privacy of allergy information.</p> <p>These requirements ensure consistency with new federal requirements pursuant to the CCDBG.</p>
40		None	<p>Adds additional capacity requirements for family day homes approved as subsidy vendors, and enrolling children age 13 or older to ensure protection for all children enrolled in the subsidy program. Also added to be consistent with Child Care Program 22VAC40-665.</p>
50		<p>Requires the provider to keep records but it does not specify requirements for electronic records.</p> <p>Requires the provider to keep a written record of a child in attendance each day.</p>	<p>Adds a requirement allowing providers to keep records as hard copy or electronically.</p> <p>The intent is to allow the provider flexibility to keep electronic records and to relieve the burden of keeping paper documents.</p> <p>Clarifies that attendance record must document attendance as arrival and departure of each child occurs.</p> <p>The impact will be increased protection of children, as emergency responders will be better equipped in the event of an emergency to identify children in attendance.</p> <p>These requirements ensure consistency with new federal requirements pursuant to the CCDBG.</p>
60		<p>Requires emergency "contact information" for a child's record.</p> <p>None</p>	<p>Amends requirement to provide emergency "care information" in a child's record for clarity and consistency for the reader.</p> <p>Adds a requirement for a written care plan for a child with a diagnosed food allergy.</p>

		Requires immunization records.	<p>The impact will be increased protection of children in care with food allergies.</p> <p>Reorganizes existing requirements within the section for clarity and consistency for the reader.</p> <p>These requirements ensure consistency with new federal requirements pursuant to the CCDBG.</p>
70		<p>None</p> <p>Parents should be provided in writing information about the requirement for the child to be adequately immunized.</p> <p>Parents must be provided in writing information that includes the link to the department’s website, referring parents to inspection compliance history after July 1, 2003.</p>	<p>Adds a requirement to disclose to parents that homes built prior to 1978 may have lead hazards. Recommendation from Virginia Department of Health to ensure that parents know of potential lead exposure. Lead exposure can have detrimental health effects if children are exposed.</p> <p>Clarifies immunization requirements to be consistent with the requirements in 22VAC40-111-90.</p> <p>Clarifies that inspection compliance history on the website is maintained for five years. This clarification helps parents to know how far back inspection history is posted on the website, allowing them to be better informed about health and safety compliance.</p>
90		None	<p>Adds procedures for accepting a child under conditional enrollment.</p> <p>Adds an exception for homeless children without documentation of immunizations to attend during a grace period of 90 days.</p> <p>The intent is consistency with new federal requirements pursuant to the CCDBG and the McKinney-Vento Act.</p> <p>The impact is the reduction of barriers for homeless children to attend licensed child care while their families are taking necessary actions to comply with health and safety requirements.</p>
100		None	<p>Adds a requirement to provide a grace period to homeless children to receive a physical examination.</p> <p>The intent is consistency with new federal requirements pursuant to the CCDBG and the McKinney-Vento Act.</p>

		A new physical is not required if a copy of the previous physical is available for children that have attended a licensed program, voluntarily registered program, or a program approved by the Department of Education.	<p>The impact is the reduction of barriers for homeless children to attend licensed child care while their families are taking necessary actions to comply with health and safety requirements.</p> <p>Removes the phrase ‘or approved by the Virginia Department of Education.’ The Virginia Department of Education no longer approves school based programs. Change made due to Code changes requiring programs to be licensed by DSS.</p>
130		Providers, substitute providers and assistants 18 years of age or older who are left alone with children shall have current CPR and first aid certification.	<p>Adds a requirement for all caregivers to have current certification in CPR and first aid.</p> <p>Clarifies that CPR training must have an in-person competency component.</p> <p>The impact will be increased protection of children in care.</p> <p>This requirement ensures consistency with new federal requirements pursuant to the CCDBG.</p>
140	22VAC40-111-130 B.	Providers and substitute providers shall have current CPR and first aid certification.	Removed from this section and moved to 22VAC40-111-130 B.
150	22VAC40-111-130 B.	Assistants age 18 years of age or older who are left alone with children shall have current CPR and first aid certification.	Removed from this section and moved to 22VAC40-111-130 B.
170		<p>Provider shall obtain caregiver tuberculosis screening information at the time of ‘hire’.</p> <p>Caregivers shall obtain at the time of hire an initial tuberculosis screening on a Virginia Department of Health, ‘Report of Tuberculosis Screening’ form or a form consistent with it.</p>	<p>Removes the term ‘hire’ and replaces it with ‘employment.’ Language changed for consistency throughout the regulation.</p> <p>‘Report of Tuberculosis Screening’ on a physician’s form added as an option for tuberculosis screening documentation. Language changed due to updated guidance from Virginia Department of Health and for consistency with Child Care Program 22VAC40-665.</p>
200		Requires orientation topics to be completed by the end of the first week and to be documented.	Adds a requirement for all caregivers to complete a minimum of 16 clock hours of orientation training, appropriate to the age of children indicated on the license.

			<p>Adds a requirement for caregivers to complete a DSS sponsored orientation course within 90 days of employment. This class will count toward the 16 hours of required orientation training.</p> <p>Adds a requirement for specific health and safety topics to include: Playground safety procedures; supervision of child, including check in and check out procedures and procedures for action in the case of lost or missing children, ill or injured children, medical and general emergencies; transportation and; caregivers who work with children that have food allergies shall receive training in preventing exposure to food(s) to which the child is allergic, preventing cross-contamination, recognizing and responding to any allergic reactions and lead and mold issues. Additional topics added to ensure that caregivers have training in these topics in order to better protect children. Changes also made to be consistent with the CCDBG.</p> <p>Adds a requirement to allow caregivers employed prior to the proposed action to complete the DSS sponsored orientation training within one year and the training may count towards the annual training requirements.</p> <p>The intent of the DSS sponsored orientation training is to provide consistent health and safety training across the Commonwealth to increase the protection of children in care.</p> <p>The impact will promote professional development, which deepens the knowledge and expertise of the provider while fostering new opportunities for children in care.</p> <p>These requirements ensure consistency with new federal requirements pursuant to the CCDBG.</p>
210		<p>Current catchline: Annual training.</p> <p>Requires a minimum of 16 clock hours of training annually in areas such as:</p>	<p>Revises catchline: Ongoing training.</p> <p>Amends the terminology usage of “clock” hours to hours.</p>

		<p>physical, intellectual, social and emotional child development; behavior management and discipline techniques; health and safety; art and music activities; child nutrition; child abuse and neglect; emergency preparedness and communicable diseases.</p>	<p>Adds a requirement for caregivers to complete a minimum of 20 hours of annual training.</p> <p>Adds language clarifying that annual training is in addition to completing orientation training requirements in 22VAC40-111-200 A-E. Clarification added so that providers know that orientation training and annual training are separate training requirements.</p> <p>The impact of increased hours of annual training will promote professional development, which improves the knowledge and expertise of the provider to better protect and care for children.</p> <p>Suggested health and safety topics include: child development; behavior management and positive guidance techniques; prevention and control of infectious diseases; prevention of sudden infant death syndrome and safe sleep; prevention of and response to emergencies due to food and other allergic reactions; medication administration; building and physical premises safety including lead and mold issues; prevention of shaken baby syndrome and abusive head trauma; child abuse and neglect, including mandated reporting; emergency preparedness; hazardous materials; transportation precautions and care requirements related to children with special needs.</p> <p>CPR and first aid training to count towards annual training hours.</p> <p>These requirements and suggested topics clarify for providers what topics are important to be trained on in order to better care for and protect children. Requirements also ensure consistency with new federal requirements pursuant to the CCDBG.</p>
220		<p>Caregivers administering medication shall complete a training program approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist or</p>	<p>Adds 'nurse practitioner, physician assistant' to the approved teachers for medication administration training.</p> <p>Language added to be consistent with language in the Drug Control Act § 54.1-3408 and Standards For Licensed Child Day Centers 22VAC40-185.</p>

		are licensed by the Commonwealth of Virginia to administer medications	
230		Written documentation requirements of annual training includes: name of the caregiver; name of the training session; date and total hours of the session and name of the organization sponsoring the training and the trainer.	<p>Adds a requirement for caregivers to provide evidence that each topic required in orientation training has been met. Training topics are required for orientation but specific topics are not required for ongoing training.</p> <p>Clearer and detailed documentation will ensure training has been received. This requirement also ensures consistency with new federal requirements pursuant to the CCDBG.</p>
280		None	<p>Adds a requirement for hazardous substances not stored in original containers to be clearly labeled. Change made to protect children's health and safety and to be consistent with Child Care Program 22VAC40-665 and Standards For Licensed Child Day Centers 22VAC40-185.</p>
530		None	<p>Adds the requirement that linens shall be appropriate to the temperature and other conditions of the rest area.</p> <p>Language added to address children's comfort and to be consistent with Child Care Program 22VAC40-665.</p>
650		None	<p>Adds a requirement for the provider to notify the parent immediately if a confirmed or suspected allergic reaction and ingestion of food to which the child has an allergy has occurred.</p> <p>The impact will be increased protection of children in care with food or other allergies.</p> <p>This requirement ensures consistency with new federal requirements pursuant to the CCDBG.</p>
700		<p>Administration of nonprescription medication is limited to caregivers age 18 or older.</p> <p>The exception that long term medication may be allowed with written authorization from the child's physician and parent is indicated with the header 'EXCEPTION.'</p> <p>The provider is to notify the</p>	<p>Adds a requirement that all medication (prescription and nonprescription) can only be administered by caregivers age 18 or older.</p> <p>The 'EXCEPTION' header is removed from this exception; the exception remains the same. Change made to be consistent with Standards For Licensed Child Day Centers 22VAC40-185.</p> <p>Clarifies that the authorization must be</p>

		parent to pick up medication for which an authorization has expired or the parent must renew the authorization.	renewed after 14 days or the medication picked up from the program. Change made to be consistent with Standards For Licensed Child Day Centers 22VAC40-185.
720		Nonprescription medication must be administered by a caregiver 18 years of age or older.	This requirement was moved to section 700.
760		Requires activated charcoal as one of the supplies in the first aid kit.	Removes the requirement of having activated charcoal in the first aid kit.  The intent is to keep up with Virginia's emergency healthcare industry recommendations and respond to provider's requests.
780		Emergency information is required to include contact information listed in 22VAC 40-111-60 B 2 and written authorization for emergency medical care as required by 22VAC 40-111-60 B 8.	Corrects cross reference for written emergency authorization.
800		Requires procedures for emergency evacuation, relocation and shelter-in-place. Addresses a limited number of scenarios to be addressed in the event of an emergency.	Adds requirements to add lockdown procedures in the event of an emergency and to have an emergency preparedness and a response plan to address the most likely to occur emergency scenarios.  The impact will be increased protection of children in care in the event of an emergency.  This requirement ensures consistency with new federal requirements pursuant to the CCDBG.
810		Evacuation procedures shall include methods to ensure essential documents, including emergency contact information, medications, and supplies are taken to the assembly point and relocation site.  None  None	Adds the requirement that essential documents also include attendance records, parent contact information, information on allergies and intolerance to food or medication.  Adds a requirement that methods to ensure that healthcare needs are addressed, to include medications, allergy plans, emergency information for staff, and supplies are taken to the relocation site.  Adds a requirement to ensure



		None	<p>accommodations or special requirements for infants, toddlers, and children with special needs are in place for safe evacuation or relocation.</p> <p>Adds a requirement to have a procedure to reunite children with their parent or those authorized to pick up the child.</p> <p>The impact will be increased protection of children in care and staff in the event of an emergency.</p> <p>These requirements ensure consistency with new federal requirements pursuant to the CCDBG.</p>
820		<p>Shelter-in-place procedures require methods to ensure essential documents, including emergency contact information, and supplies are taken to the safe location;</p> <p>None</p> <p>None</p> <p>None</p>	<p>Adds the requirement that essential documents also include attendance records, parent contact information, information on allergies and intolerance to food or medication.</p> <p>Adds a requirement that methods to ensure that healthcare needs are addressed, to include medications, allergy plans, emergency information for staff, and supplies are taken to the relocation site.</p> <p>Adds a requirement to ensure accommodations or special requirements for infants, toddlers, and children with special needs are in place for safe evacuation or relocation.</p> <p>Adds a requirement to have a procedure to reunite children with their parent or those authorized to pick up the child.</p> <p>The impact will be increased protection of children in care and staff in the event of an emergency.</p> <p>These requirements ensure consistency with new federal requirements pursuant to the CCDBG.</p>
830		Requires emergency response practice drills for evacuation and shelter-in-place procedures.	<p>Adds a requirement to include emergency response practice drills for lockdown procedures at least annually and to maintain these drill records for one year.</p> <p>The impact will be increased protection of children in care and staff in the event of an emergency.</p>

			<p>This requirement ensures consistency with new federal requirements pursuant to the CCDBG.</p>
850		<p>Requires reports to the department within 24 hours of various incidents.</p> <p>Current requirement is that providers report serious injuries to the department within 24 hours.</p>	<p>Adds a requirement to require contact with the department when child care services have been suspended or terminated for more than 24 hours as a result of an emergency situation, and notification to resume care.</p> <p>Amends a requirement to require contact with the department as soon as practicable but not to exceed two business days of an injury to a child when a referral is made for medical treatment.</p> <p>The impact will be increased protection of children in care in the event of an emergency and additional time for providers to ascertain the nature of the serious injury.</p> <p>These requirements ensure consistency with new federal requirements pursuant to the CCDBG.</p>
870		None	<p>Adds requirements that caregivers take steps to avoid cross-contamination to prevent an allergic reaction, and not serve food to a child that the child is allergic to.</p> <p>The impact will be increased protection of children in care with food allergies.</p> <p>This requirement ensures consistency with new federal requirements pursuant to the CCDBG.</p>
990		None	<p>Adds a requirement that while transporting children, the driver will have the allergy care plan and emergency contact information.</p> <p>The impact will be increased protection of children in care while being transported.</p> <p>This requirement ensures consistency with new federal requirements pursuant to the CCDBG.</p>
1020		None	<p>Adds requirements for the following:          Bath towels shall be assigned for individual use.          Mattresses shall have at least one inch of padding to be used by children who sleep more than two hours.          A tub or shower with heated and cold water</p>

			<p>shall be provided.</p> <p>Language added to be consistent with the Child Care Program 22VAC40-665. These new requirements will increase comfort for children receiving nighttime care and reduce the spread of disease.</p>
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