

Minutes
Child Day Care Council
VDSS – 7 N. 8th Street
Richmond, VA
March 11, 2004

Present

Gail Johnson, Chair
Donna Thornton, Vice Chair
Lisa Shelburne, Secretary
Susan Ballard
Judith Beattie
Rosemary Burton
Margaret S. Collins
Norman R. Crumpton
Terry Davis
Charles W. Finley
Susan Hackney
William Harvey
Kim Hulcher
Donna R. Peters
Novella Johnson Ruffin
Anita Simpkins
Nancy Read Smith
Kristi W. Snyder
Carol Steele
Deborah M. White

Absent

Jane Craig
Sondra R. Freeman
Deborah Moore Gardner
Bethany Geldmaker
Adam Thiel
William Tobin
Jeff Walton
Jay DeBoer
Dona R. Huang

Call to Order

The meeting was called to order by Chair Gail Johnson at 10 a.m.

Welcome and Introductions

Chair Gail Johnson welcomed council members and staff. Council member introductions were made for the benefit of new members, staff and guests.

Agenda Approval

The agenda was approved with the addition of two items: Background Checks and Proxy Voting.

ON MOTION DULY MADE (Ms. Steele) and seconded (Mr. Finley) moved to approve the agenda with the addition of Background Checks and Proxy Voting. Motion carried with all in favor.

Approval of Minutes

There was discussion on how to incorporate suggested minute changes/additions. Richard Martin asked that all suggested changes/additions to the minutes be emailed to him at richard.martin@dss.virginia.gov. Ms. Hulcher and Dr. Burton indicated they would provide additions and corrections to the minutes.

ON MOTION DULY MADE (Ms. Steele) and seconded (Dr. Simpkins) moved to table the approval of the February 12, 2004 minutes pending the incorporation of suggested changes. Motion carried with all in favor.

Chair's Report

Ms. Johnson reported on two resolutions – HJR 114 and SJR 80, both of which have been passed by both legislative bodies. Both resolutions direct the Joint Legislative Audit and Review Commission (JLARC) to study the potential impact of the amended 22 VAC 15-30, Standards for Licensed Child Day Care Centers, on providers, parents, and children.

JLARC shall submit a report of its findings and recommendations to the Governor, the General Assembly, and the Commissioner of the Department of Social Services no later than September 15, 2004. JLARC shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2005 Regular Session of the General Assembly.

Referring to the directives contained in these two resolutions, Ms. Johnson reminded council members of the important work ahead of them and to always be cognizant of why we are here. She asked that the council look at the big picture, to look at the needs and the impact. We need to do what is best for Virginia's children because preserving and securing our next generation should be first in our thinking. With this comes the challenge – how to provide best practices for Virginia's children and minimize the impact of these practices on parents and providers. Ms. Johnson passed out a "Mission and Vision" statement.

Proxy Voting

Allen Wilson, Assistant Attorney General, addressed the issue of proxy voting. The Virginia Freedom of Information Act does not allow for this type of voting. Proxy votes are considered written ballots which are prohibited. Ms. Hulcher inquired whether opinions fall under the same criteria. Absentee opinions can be passed to the council body but they would not be considered as a vote. The *Code of Virginia* supercedes any internal governing rules such as by-laws.

Carol Steele asked about a final vote on a total regulatory package. Mr. Wilson stated that a "no" vote on a total package would carry all increments contained in the package.

Report on Current Status of Regulations

Richard Martin passed out a status report as of March 10. Donna Thornton had a question for Mr. Martin on 22 VAC 40-661, Child Care Services, which deals with eligibility.

The State Board of Social Services will act on 22 VAC 40-661, Child Care Services, at its April 14-15 meeting at the Prince William Department of Social Services.

Legislative Report

Mr. Martin briefed the council on HB 872 which incorporates extra provisions regarding identity theft and safeguarding the identity of children. The amendment to this bill addresses prosecution and does not change any provisions dealing with child care.

Mr. Martin spoke briefly to the two resolutions; HJR 114 and SJR 80.

Not in the report is HR 18 that was just introduced a few days ago by Delegate Bradley Marrs. This resolution has not been acted on in committee. There is some question as to the bearing this will have.

Proposed Standard for Licensed Child Day Center Regulation

Area - 22 VAC 15-30-380

Jeff Williams from the Division of Licensing presented materials and data relating to the numbers and statistics of displaced children in Virginia if council passes the department's recommendation to change the regulations requiring 25 square feet per child to 35 square feet.

The Mr. Williams presented the following recommendations:

- Remove incremental change at two years.

He also presented the following options:

- Allow full five years to implement 35 square feet.
- Allow more than five years to implement 35 square feet.
- Allow three years and stop at 30 square feet.
- Remove increase in square footage requirement.

Dr. Simpkins thanked the chair for providing the mission statement and the wall sheets with the discussion rules to assist the Council in their deliberations. Dr. Simpkins wanted to add the instructions given to the general public as another guideline for the proposed changes. She quoted from the public announcement, which said, "The purpose of the proposed action is to revise standards as appropriate to: 1) provide more protection for children in care, 2) be less intrusive, and 3) clarify the language." She also made reference to the provision in statute that was listed in the townhall document that mentioned that regulations should not favor any specific teaching approach of any single private accreditation or certification agency.

Discussion

Ms. Steele supports the 35 square feet per child and also recommended removing the two year provision for an incremental step of 30 square feet per child.

Dr. Simpkins questioned the criteria used to measure square footage in a facility. Drs. Burton and Simpkins shared examples of how other states' measure square footage each citing different references. Dr. Burton talked about existing local zoning ordinances and how that may affect the expansion of existing facilities.

Ms. Thornton suggested a grandfather clause for existing centers where a zoning ordinance or historical location prohibits expansion.

Commissioner Jones asked if there is any mechanism in place for a center that could not expand its square footage due to zoning or other unresolvable issues could apply for an allowable variance. Ms. Stevens answered that "Yes" a center could obtain an allowable variance.

Ms. Steele supported the friendly amendment made by Ms. Thornton. Ms. Hackney objected to grandfathering facilities. Ms. Hackney's issue was one of quality differences for children.

Ms. Hulcher stated that 25 sq. feet is working for her facility.

Ms. Smith suggested a compromise of grandfathering in at 30 sq. feet.

Ms. Snyder was comfortable with 35 sq. feet and is not comfortable with the grandfather clause. Her issues are with fairness and consideration and since this regulation would not be in effect for five years in the future then there will not be any children out-on-the-streets.

Dr. Burton would like to see more research on the space issue.

Dr. Simpkins referenced Senate Document 4 which states people like the quality of child care in Virginia and their major focus is with the love and attention given to their children by day care providers.

Ms. Snyder reminded that we are charged with protecting the welfare and care of children and that in doing so we must use good common sense.

On the other hand, Ms. Thornton stated that we must go back to the public comments received and use compromise and balance. She talked about the growing trend toward accreditation and their standard of 35 sq. feet per child. Allowing centers to follow this trend and move gradually would allow for a more gradual and flexible incorporation of the 35 square feet requirement.

Public Comment

The following individuals spoke to the proposed regulatory changes.

Gertrude Powell, Tiny Hands Preparatory Academy, Chesterfield, Va. – Opposes changes to regulations.

Daryl Jenkins, parent, Midlothian, Va. - Believes that five years period for effective date is not enough time for centers to accommodate proposed regulatory changes.

Shelly Walz, Chester Child Development, Chester, Va. – Opposes increasing square footage requirement in regulation.

Ally Stevens, Chester Child Development, Chester, Va. – Opted not to speak.

Clark Andrs, River's Bend Children's Center, Chester, Va. – Mr. Andrs believes that children will be forced out of licensed child care if the proposed standards are adopted. He states that square footage has little to do with enhancing quality child care.

Chris Schuster, Ex. Director of Virginia Child Care Association, Woodbridge, Va. – Mr. Schuster does not support the proposed change of 25 to 35 square feet per child. He believes that some changes have questionable benefits.

Kristi Wright, Voices for Virginia's Children, Richmond, Va. spoke on the resolutions before the House and Senate. Ms. Wright states that "Voices is confident that since the changes you have proposed included phase-in period, grandfather provisions, are small steps, and do not yet include any changes made in response to public comment, the doom and gloom predictions you have heard will not be supported by JLARC's study. Furthermore, JLARC will look at the impact of these changes on CHILDREN, not just providers which has been the focus of much of the opponent's comments".

Sharon Jones, IACCEPT, Charlottesville, Va. Handed out copies of her organization's extensive research and asked council to consider measuring the outside dimensions of buildings in determining the 35 square feet.

Jack Knapp, VAIB. Mr. Knapp requested the staff ratios not be changed; stated the 25 square feet is adequate; and would like to study the staff training proposal more.

Mary L. Boone, The Children's Home and a retired school administrator, Midlothian, Va. Supports proposed changes of staff to child ratio for the two year olds; however, she does not support the ratios for the other ages for fear that many will be forced out of adequate child care.

Vernon Holloman, PCCPV. Does not believe that the rationale of DSS staff numbers is realistic. By passing these proposed regulations, many operators will be forced out of business and many children will be displaced. This would result in a higher number of unlicensed facilities.

David Duffy, Children's House, Chesterfield. Asked council members to take their time when considering the change in square footage to think of the parents and the financial aspects of such on them.

Ron Crouch, parent, Chesterfield. Please consider the parents and the impact the increases in child care will have on them, especially the burden on single parents and that the controversy around the proposed standards should be a clue that they are not so great for the children.

Marge Patterson, Director of Wee Folks Child Care. Please look at the big picture. Ms. Patterson talked about her concerns and scares of unlicensed facilities.

Denise McDonald, A Child's Place Learning and Day Care Centers, Chesterfield, Va. Opposes the increase in square footage, the changes in the child-to-staff ratio; the group size increase; and is opposed to mandates for more training citing that the director of a child care center must be able to make the call on what training is appropriate.

Susan King, River's Bend Children's Center, Chester. Spoke against proposal for changes.

Angela Lanam, Edu.Care Children's Center. Owns ten facilities: three in Virginia Beach; and seven in Richmond. Is seeking NAEYC accreditation and opposes regulation on square footage change.

Vicki Hensen, Owner and Director of Woodlake Child Development Center, Midlothian, Va. Requested that when council reviews the regulations and standards for the number of required hours for staff training, that you consider all training. Some of the proposed changes would have far-reaching effects on licensed child care providers as well as the availability and cost of child care for parents.

Patti Wickersham – Opposes proposed changes to square footage.

Discussion continued

Commissioner Maurice Jones commented on the issue at hand. He would like to see some form of grandfathering clause; and give people longer to get to the required square footage recommended. Commissioner Jones asked the Council to consider:

- One standard with a grandfather clause
- The grandfathering not apply to expansions or moves
- The grandfathering apply to the licensee and not the building.

ON MOTION DULY MADE (Ms. Thornton) and seconded (Mr. Harvey) moved that 22 VAC 15-30-380 be amended to require that three years after the effective date of the regulation new applicants will have to meet the requirement of 35 sq. feet per child and that currently licensed facilities will be grandfathered with 25 sq. feet for eight years with the exception of new additions which shall adhere to the 35 sq. feet per child three years after the effective date of this regulation.

Roll Call Vote- 15 Yes: Thornton; Shelburne; Ballard; Beattie; Collins; Crumpton; Davis; Finley; Hackney; Harvey; Peters; Ruffin; Smith; Snyder; Steele. 4 No: Burton; Hulcher; Simpkins; White; 1 Abstain: Johnson

Motion Carried.

Ratios – 22 VAC 15-30-440

Discussion and Action

Jeff Williams presented documentation for options for child to adult ratios.

Two year olds:

ON MOTION DULY MADE (Ms. Steele) and seconded (Ms. Hulcher) moved that 22 VAC 15-30-440 be amended to reflect the staff-to-child ratio for two years olds at 1 :8 effective one year after the publication of this regulation. The question was called.

Roll Call Vote- 20 Yes

Motion Carried with all in favor.

Three to Four Year olds:

Deborah White moved to leave the four year old ratios regulation as it currently stands – that is staff-to-child 1:12. Donna Thornton seconded. The question was called.

Roll Call Vote: 8 Yes: Thornton; Shelburne; Burton; Finley; Hulcher; Simpkins; Smith; White. 11 No: Ballard, Beattie; Collins; Crumpton; Davis; Hackney; Harvey; Peters; Ruffin; Snyder; Steele. 1 Abstain: Johnson.

ON MOTION DULY MADE (Ms. Beattie) and seconded (Dr. Ruffin) moved that the staff-to-child ratio for three and four year olds remain at 1:10 with the effective date to be one year from the publication of this regulation.

Roll Call Vote- 16 Yes: Thornton; Shelburne; Ballard; Beattie; Burton; Collins; Crumpton; Davis; Finley; Hackney; Harvey; Peters; Ruffin; Smith; Snyder; Steele. 3 No: Hulcher; Simpkins; White. 1 Abstain: Johnson

Motion Carried.

School Age to 8 Year Olds; and 9 – 12 year olds.

Carol Steele made a motion to change the regulation to reflect a staff-to-child ratio of 1:18 for school age to 8 years old; and a 1:20 child-to-staff ratio for nine to 12 year olds. This motion was seconded by Susan Hackney.

There was discussion on this proposed change. Dr. Burton talked about how school children need to wind down after a regular school day.

Kristi Snyder talked about how difficult it is to find well trained and educated, part-time staff. Changing these staff ratios will make this even more difficult.

ON MOTION DULY MADE (Ms. Steele) and seconded (Ms. Hackney) moved that 22 VAC 15-30-440 be amended to reflect a staff-to-child ratio of 1:18 for school age children to eight years of age; and nine to 12 year olds be amended to reflect a staff-to-child ratio of 1:20 effective upon publication in The Virginia Register.

Roll Call Vote- 15 Yes: Shelburne; Ballard; Beattie; Burton; Crumpton; Davis; Finley; Hackney; Harvey; Peters; Ruffin; Smith; Snyder; Steele; White. 2 No: Hulcher; Simpkins. 3 Abstain: Johnson; Thornton; Collins.

Motion Carried.

Nancy Reed Smith introduced discussion and passed out her written concerns on the proposed regulation as cited on page 21, No. 6 b. which reads:

The center shall have readily accessible and in close classroom proximity auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for all three-year-olds who are included in balanced mixed-age groups to be available in the event of emergencies.

Ms. Smith proposed a motion to change the above to a 1:12 ratio. This motion died since the language in the proposed regulation only applies to emergency situations.

ON MOTION DULY MADE (Mr. Crumpton) and seconded (Ms. Hackney) moved that 22 VAC 15-30-440, E 6b, remain as proposed stating that the center shall have readily accessible and in close classroom proximity auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for all three-year-olds who are included in balanced mixed-age groups to be available in the event of emergencies.

Roll Call Vote- 18 Yes: Shelburne; Ballard; Beattie; Burton; Collins; Crumpton; Davis; Finley; Hackney; Harvey; Hulcher; Peters; Ruffin; Simpkins; Smith; Snyder; Steele; White. 2 Abstain: Johnson; Thornton.

Motion Carried.

Kim Hulcher introduced a request that the last sentence of paragraph F on page 21 of the proposed regulation read as:

A center may ~~not~~ temporarily reassign a child from his regular group and staff members for reasons of administrative ~~convenience or~~ necessity but not otherwise casually or repeatedly disrupt a child's schedule and attachment to his staff members and group.

ON MOTION DULY MADE (Ms. Hulcher) and seconded (Dr. Burton) moved language be changed to the current proposed regulation as it appears on page 21, F, last sentence read: "A center may temporarily reassign a child from his regular group and staff members for reasons of administrative necessity but not otherwise casually or repeatedly disrupt a child's schedule and attachment to his staff members and group". Motion carried on a voice vote.

Next Meeting

Members made the decision to carry-over to the next meeting (April 8) the proposed regulatory changes dealing with group size (22 VAC 15-30-440, page 21; and training (22 VAC 15-30-310, page 16). In the event there is not sufficient time to act on all the business before the council on that day, April 22 has been reserved to finish scheduled work for a final product by May 13

ON MOTION DULY MADE (Dr. Ruffin) and seconded (Ms. Steele) moved to designate the April 8 meeting as a "work session" and thereby suspend the public comment period. It is the belief of the Council that sufficient comment has been received via the public hearings, both orally and written, and at the past three scheduled council meetings. Motion carried on a voice vote.

Background Checks

In response to a request for clarification from Dr. Simpkins, Ms. Wenda Singer showed council members a copy of a document recently sent to licensed child day centers entitled "Waiver Provisions from Background Checks for Child Welfare Agencies." She explained that "Background Checks for Child Welfare Agencies" is a regulation, effective April 1, 2004, promulgated by the State Board of Social Services. This board is responsible for promulgating waiver provisions for child welfare agencies, including licensed child day centers, and those provisions are in the regulation. Because the rest of the State Board regulation does not apply to licensed centers, the Division of Licensing Programs sent only the applicable provisions to them.

Accreditation

Deborah White passed out a document "Comparison Chart of Accreditation Agencies", dated November 19, 1998. She suggested this might be something that the council would like to work on after the work of the regulations is past.

The meeting was adjourned at 4:00 p.m. by Gail Johnson, Chair.

Respectfully Submitted:
Phyllis Dalton
March 18, 2004