

STANDARDS FOR LICENSED FAMILY DAY SYSTEMS

PART I.

INTRODUCTION.

22 VAC 40-121-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Adult" means any individual 18 years of age or older.

"Assistant" means an individual who is 14 years of age or older and who, under the direct supervision of the provider or substitute provider, provides care, protection, supervision and guidance of children in the member home.

"Caregiver" means the provider, substitute provider or assistant.

"Child" means an individual under 18 years of age.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Commissioner" means the Commissioner of the Virginia Department of Social Services.

"Complaint" means an accusation received either orally or in writing that (i) a licensed family day system is not in compliance with one or more of these standards or one or more statutory requirements; (ii) a family day system home is not in compliance with one or more applicable requirements of these standards or one or more requirements

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established by the family day system; or (iii) a child in care of a family day home that is a member of a licensed family day system is being abused or neglected as defined by § 63.2-100 of the Code of Virginia.

"Department" means the Virginia [State] Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

"Director" means the licensee or a person designated by the licensee who oversees the day-to-day operation of the system including compliance with all standards for licensed family day systems.

"Family day system" or "system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who through contractual arrangement may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Family day system home" or "member home" means any family day home that is an approved member of a family day system where care is provided for one to 12 children under the age of 13 exclusive of the provider's own children and any children who reside in the home. Family day homes that are members of a licensed family day system and are approved by that system to care for six to 12 children are, by law, not subject to direct licensure by the department.

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"Good character and reputation" means knowledgeable and objective people agree that the individual (i) maintains business, professional, family, and community relationships that are characterized by honesty, fairness and truthfulness and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage, and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Licensee" means the person or persons to whom the license is issued.

"Licensing office" means the office of the Virginia Department of Social Services from which the family day system's license to operate was issued.

"Parent" means the biological, foster or adoptive parent, legal guardian, or any individual with legal custody of a child enrolled or in the process of being admitted to a family day system home.

"Person" means any natural person or any association, partnership or corporation.

"Programmatic experience" means time spent working directly with nonrelated children in a group. Work time shall be computed on the basis of full-time work experience during the period prescribed or equivalent work time over a longer period of time. Experience settings may include but not be limited to a child day program, family day home, child day center, boys and girls club, field placement, elementary school, or a faith-based organization.

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"Provider" means an individual 18 years of age or older who is approved by the family day system and who has primary responsibility for providing care, protection, supervision and guidance for children in the family day system home.

"Referral" means any activity by the family day system that provides assistance in locating or arranging day care for children in homes that have been accepted or approved as members of the system, or in locating or arranging for health or social services from other sources based upon identified needs.

"Serious injury" means a wound or other specific damage to the body such as, but not limited to, unconsciousness; broken bones; dislocation; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice.

"Substitute provider" means an individual 18 years of age or older who meets the qualifications for a provider, is designated by the provider and approved by the system, and who is readily available to provide substitute child care in the member home.

PART II.ORGANIZATION AND ADMINISTRATION.**22 VAC 40-121-20. Sponsorship.**

Each family day system shall have a clearly identified sponsor.

1. When a system is sponsored by an individual proprietor, the individual is the licensee.

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2. When a system is sponsored by a partnership, the partnership shall serve as the licensee and have a written agreement (articles of partnership) that allows operation and maintenance of a family day system.

3. When a system is sponsored by an unincorporated association, the association shall have:

a. A governing board that serves as the licensee; and

b. A written constitution or written by-laws that allow for the operation and maintenance of a family day system.

4. When a system is sponsored by a corporation, it shall have:

a. A governing board that serves as the licensee;

b. A charter that specifies that the purpose of the corporation includes the operation and maintenance of a family day system; and

c. A certificate of corporate status issued by the State Corporation Commission or, for corporations based out-of-state, a certificate of authority to transact business in the Commonwealth of Virginia.

22 VAC 40-121-30. Operational responsibilities.

A. The licensee shall develop a written program description for the system that shall be available to prospective member homes, parents and the general public and that shall include, at minimum, the following elements:

1. The mission of the system;

2. The system's organizational structure;

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3. Population to be served;

4. Geographical area to be served;

5. Services to be provided to the homes that are members of the system; and

6. Services to be provided to families and children who use the system.

B. Written policies and procedures shall be developed for the operation of the system that include, but are not limited to:

1. The roles, rights and responsibilities of the system in the supervision and approval of member homes and referral of children to those homes;

2. Criteria for approving, suspending and terminating family day homes as members of the system;

3. The roles, rights and responsibilities of homes that are members of the system;

4. The roles, rights and responsibilities of parents of children who are cared for in homes that are members of the system;

5. Orientation and training of providers;

6. Procedures for technical assistance and consultation to providers, to include alerting them to zoning and other pertinent local ordinances;

7. Procedures for selection, evaluation, inspection, supervision, and monitoring of system homes;

8. Policies and procedures for referral of children to homes that are members of the system;

9. Policies and procedures for referral of children to available health and social services;

10. Procedures for the annual renewal of approval of homes as members of the system;

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11. Procedures to be followed to ensure that all areas of noncompliance with approval requirements have been corrected promptly;

12. Procedures for complaint investigations; and

13. Procedures for notifying parents when a member home closes or when a member home's approval has been suspended or terminated.

C. The licensee shall ensure that the system's and member homes' activities, services, and facilities meet and are maintained in compliance with these standards, the terms of the license issued by the department, other relevant federal, state or local laws and regulations, and the system's own policies and procedures.

D. The licensee shall appoint and identify in writing a director to be responsible for the day-to-day operation and management of the system, except when the sponsor is an individual who serves as the director or a partnership in which a partner serves as the director.

E. No family day system shall disseminate or cause directly or indirectly to be disseminated any statements regarding services that are untrue, deceptive or misleading.

22 VAC 40-121-40. Finances.

A. The family day system shall have a plan of financing that ensures sufficient funds to operate in accordance with its stated program description and the services to be provided.

B. An initial application for licensure as a family day system shall include:

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1. A plan of financing (working budget) for the first year of operation detailing the expected income and expenses for the year;

2. Documentation of funds or credit available for the first year of operation;

3. A balance sheet showing current assets and liabilities; and

4. A fee and payment schedule as required by 22 VAC 40-121-50.

C. The application for license renewal shall include:

1. A current balance sheet showing current assets and liabilities;

2. A current working budget showing actual income and expenditures; and

3. Current fee and payment schedules as required by 22 VAC 40-121-50.

D. There shall be a system of financial record keeping that is consistent with generally accepted accounting principles and that shows separation of the system's accounts from all other accounts.

[E. There shall be a written policy for the collection and disbursement of funds.]

F. Those members of the governing entity and staff who have been granted authorized responsibility for funds of the system shall be bonded.

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[G. The department, at any time, may request an audit of the financial records of the system by a certified public accountant. When requested, systems shall obtain such an audit and the cost of the audit report shall be borne by the system. (This does not mean that the department will routinely require such a report as part of the process of application for licensure.)]

22 VAC 40-121-50. Fee and payment schedules.

A. The family day system shall maintain a current written schedule of fees charged for services provided.

B. The applicable fee schedules shall be made available to families who seek or use the services of the system, to homes that apply for membership in the system and to the department as part of the application for licensure.

C. The family day system shall establish and maintain a current written schedule of payments to be made to homes that are members of the system. This schedule shall specify the amount of payment, conditions of payment and frequency of payment.

D. The schedule of payments to member homes shall be provided to all homes that are members of the system and also to the department as part of the application for licensure. When applicable, this schedule shall also be made available to families who seek or use the services of the system.

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22 VAC 40-121-60. Family day system setting.

A. The family day system shall have an office in Virginia that shall serve as the headquarters of the system.

B. The system office shall have:

1. Sufficient space for administration of the system, including all clerical functions;
2. Sufficient space to maintain privacy and confidentiality for conferences with parents who seek or use the services of the system and with family day home providers who are members of the system;
3. At least one working telephone, other than a pay phone, with a listed number that is available for system business;
4. An emergency phone number that shall be provided for the use of the homes in the system during any hours that children are in care if the system's telephone is not manned during those hours.

22 VAC 40-121-70. Determination of number of member homes.

In order to ensure timely and adequate service delivery, the maximum number of homes that may be member homes of the system shall be based on the following factors:

1. The number of system's office staff (NOTE: Persons who are approved as day care providers and their assistants are not considered to be system's office staff);
2. The geographical dispersion of homes with relation to the system office;
- [3. The types and needs of children served by the system;]

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4. The financial capabilities of the system; and
5. The types of programs and services offered by the system.

22 VAC 40-121-80. Reporting requirements.

A. The family day system shall submit to the department such reasonable reports and information as it may require.

B. The system's books and records shall be made available for inspection by the department's representative, upon request.

C. The licensee, governing board or its official representative shall notify the department when any major change is anticipated in the program, services provided, or administrative structure. When such a change occurs, which was not anticipated, this notification shall be provided no later than 10 days following the change.

D. The licensee shall notify the department within ~~five~~ [three] working days of any change in office location or the director of the system, or any change that would affect the terms of the license. ~~], and in writing within five work days.]~~

E. The licensee or any system employee shall notify the local department of social services or the toll-free Child Abuse and Neglect Hotline (1-800-552-7096/TDD) as specified in § 63.2-1509 of the *Code of Virginia* whenever there is reason to suspect that a child has been subjected to abuse or neglect by a provider or any other person.

F. The licensee or any staff member shall notify the department immediately of any imminent danger or hazard that threatens the health and safety of children in a member home.

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G. The licensee shall notify the department of any of the following changes or events by the next working day after the system learns of their occurrence [and in writing within five work days]:

1. Serious injury to a child while in the care of a provider;
2. Lost or missing child [when it is necessary to seek assistance of local emergency or police personnel];
3. Death of a child while in the care of a provider;
4. Damage to the system's office that affects the operation of the system;
5. For staff of the system, any pending charge or conviction of a crime specified in § 63.2-1720 of the *Code of Virginia*, and whether or not the person is the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth;
6. For a provider, substitute provider, assistant or member of a provider's household, any pending charge or conviction of a crime specified in §§ 63.2-1720 and 63.2-1727 of the *Code of Virginia*, and whether or not the person is the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth;
7. Unanticipated permanent or temporary cessation of the operation of the system; and
8. The provider is exceeding the number of children allowed as a family day home and is required by law to be licensed as a child day center.

H. The program description shall be updated when changes are made in the program and updates provided to the assigned licensing office within 30 days of the change.

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I. Within 30 days after the system's initial license to operate is issued and quarterly thereafter, the licensee shall send a current directory of member homes to the assigned licensing office. The directory shall contain the following information:

1. Name of the day care provider;
2. Address of the member home;
3. Telephone number of the member home; and
4. Approved capacity of the member home.

22 VAC 40-121-90. Public access to records.

A. Except as provided in 22 VAC 40-111-100, the family day system shall make the following available for public review:

1. Confirmation that a family day home is a member of the system;
2. Correspondence between the family day system and the provider or other parties in matters pertaining to the family day system's approval or monitoring of the provider;
3. Evaluation and monitoring reports, reflecting the results of the system's evaluation and monitoring of the provider;
4. Forms and other standard documents used to collect routine data on the provider as part of the provider's record of compliance with the Standards for Licensed Family Day Systems;
5. Enforcement letters or other notification or written notices from the system requiring correction of violations of the Standards for Licensed Family Day Systems; and

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6. Correspondence to the system from the department regarding enforcement actions against the member home.

B. Any documents, materials, reports, or correspondence that would normally be included as part of the public record shall remain on file for three years.

C. If a system has a question about whether information may be released to the public, the director shall consult the system's attorney or a representative of the department.

D. Systems may not charge more than provided under the Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the *Code of Virginia*, for copies of public information.

22 VAC 40-121-100. Confidentiality.

A. The licensee shall keep confidential and not part of the public record the following:

1. Records, reports, and correspondence that pertain to child abuse or neglect investigations involving enrolled children;

2. Names of enrolled children and their parents;

3. Confidential information with regard to specific system personnel;

4. Any items that deal with reports of inspection or complaint investigations that are still in progress; and

5. Other material required by state law to be maintained confidential.

[B. General requirements for records.

1. Any forms used for record keeping shall contain at minimum the information specified in these standards.

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- 2. All records shall be kept in a locked area.
- 3. All records required by these standards shall be kept current.]

PART III.

QUALIFICATIONS AND REQUIREMENTS FOR SYSTEM STAFF.

22 VAC 40-121-110. General staff qualifications.

A. The directors, staff members, volunteers, and any other persons who are alone with, in control of, or supervising one or more children, or involved in the day-to-day operations of the system shall comply with the [current regulation and] requirements for background checks in § 63.2-1720 of the [Code of Virginia].

B. The director and every staff member or volunteer of a system shall be:

- 1. 18 years of age or older;
- 2. Of good character and reputation;
- 3. Physically and mentally capable of carrying out assigned duties and responsibilities;
- 4. Emotionally stable with an understanding of problems and needs of children and their families; and
- 5. Qualified in accordance with the applicable educational training and experience requirements contained in these standards.

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22 VAC 40-121-120. Position descriptions.

A. There shall be a written description for each staff position that includes the following:

1. Job title;

2. Functions assigned to the position, including authority and responsibility; and

3. Education or experience, or both, required for the position.

B. A copy of the job description shall be made available to each person assigned to the position at the time of employment and a copy retained in the staff member's record.

22 VAC 40-121-130. Qualifications of the director.

A. Each system shall have one full-time staff member designated as the director.

B. The director shall have:

1. A master's degree in early childhood education, child development, social work, psychology, human services, or a child-related field from an accredited college or university, or the equivalent as determined and approved by the department, plus three years of experience in any one or more of these fields, including two years experience in a supervisory, administrative, or management capacity; or

2. A bachelor's degree in early childhood education, child development, social work, psychology, human services, or a child-related field from an accredited college or university, or the equivalent as determined and approved by the department, plus four years of experience in any of these fields, including two years experience in a supervisory, administrative or management capacity.

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22 VAC 40-121-140. Responsibilities of the director.

A. The director shall be responsible for the overall day-to-day management, administration and supervision of systems operations.

B. The director shall ensure assignment of sufficient qualified staff to operate the system.

C. The director shall designate a staff member to serve in the director's absence.

22 VAC 40-121-150. Qualifications of referral, training and home visitation staff.

A. Staff members designated to perform referral, training or home visitation services shall have:

1. A bachelor's degree in early childhood education, child development, social work, psychology, human services, or a child-related field from an accredited college or university or the equivalent as determined and approved by the department; or

2. An associate degree, or equivalent, in a child-related field, human services, community and social services, or educational services from an accredited college or university or the equivalent as determined and approved by the department, and two years supervised experience working in a child day center, children's residential facility, family day home, or similar program providing care to children.

B. The professional qualifications of staff members shall be documented in the staff member's record.

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22 VAC 40-121-160. Responsibilities of referral, training and home visitation staff.

A. Responsibilities for referral, training and home visitation services shall be assigned to a permanent staff member or members.

1. Referral services and responsibilities include, but are not limited to, interviewing parents and children and referral of children to family day homes that are members of the system or to available health or social services as needs are identified.

2. Training services and responsibilities include, but are not limited to, developing and providing training, technical assistance and consultation to providers and staff of family day homes that are members of the system.

3. Home visitation services and responsibilities include, but are not limited to, visiting family day homes, for the purpose of inspecting, evaluating, approving, supervising and monitoring member homes in accordance with the requirements of these standards.

B. A full-time home visitation staff member shall be responsible for no more than 30 member homes. Two years after the effective date of the regulation, a full-time staff member shall be responsible for no more than 35 member homes. [Four years after the effective date of the regulation], one full-time home visitation staff member shall be responsible for no more than 40 member homes.

22 VAC 40-121-170. Clerical/support staff.

A. The system shall employ sufficient clerical/support staff to keep correspondence, required records, accounts and files current and in good order.

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B. Clerical/support staff shall be qualified by both education and experience to perform assigned tasks.

22 VAC 40-121-180. Volunteers.

A. A system that uses volunteers shall have a written plan for their selection, orientation, training, supervision and assignment.

B. At least one staff member shall be assigned the responsibility for selection, orientation, training, scheduling, supervision and evaluation of volunteers.

C. A volunteer who is used to perform any staff function or responsibility shall meet the qualifications of the position and the general staff qualifications as required by 22 VAC 40-121-110.

D. The system shall not be dependent on the use of volunteers to ensure the basic provision of services on a continuous basis.

22 VAC 40-121-190. Staff orientation and training.

A. Prior to assuming their duties, all staff members, including a newly employed director, shall be given orientation in at least the following areas:

1. The system's program description;
2. Services offered by the system;
3. Confidential treatment of personal information;
4. Recognizing and reporting child abuse or neglect;
5. System's policies and procedures; and

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6. Standards for Licensed Family Day Systems (22 VAC 40-121).

B. All staff (except custodial staff, if employed) shall obtain a minimum of eight clock hours of training annually, through in-service training programs or institutes, workshops, classes or conferences.

1. The training shall be in areas related to the employee's assigned duties and responsibilities and shall include an update to the topics covered during orientation.

2. Training shall be conducted by trainers who meet the qualifications in 22 VAC 40-121- 280.

C. Documentation of orientation and training, including the date and total hours of training received, the content of the training, and the name of the organization or person who sponsored the training shall be filed in the employee's record.

22 VAC 40-121-200. Records for system staff.

A. The system shall maintain a record on each staff member and volunteer.

B. The record shall contain at minimum the following:

1. Personal and social data.

a. Name;

b. Birthdate;

c. Current address and telephone number;

d. Position and date employed;

e. Last previous employment;

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f. Copies of at least three references or notations of verbal references reflecting the date of the reference, the source and the content;

g. Background checks, including criminal record checks, child abuse and neglect central registry checks and sworn disclosure statements, as required in § 63.2-1720 of the Code of Virginia;

h. Previous experience and training;

i. Name and telephone number of a person to contact in an emergency; and

j. Date and reason for termination of employment.

2. Documentation of orientation and annual training received following employment as required in 22 VAC 40-121-190.

C. Staff records shall be current, kept in a locked area and retained by the system until two years after employment or volunteer service is terminated.

PART IV.

SERVICES TO MEMBER HOMES.

22 VAC 40-121-210. Approval criteria and requirements.

The system shall develop criteria and requirements that family day homes must meet to be approved as members of the system. At minimum, these criteria and requirements in all cases shall match or exceed the requirements for licensed family day homes [including but not limited to:

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1. Educational, personal attributes and experience requirements for caregivers and household members;
2. Requirements of the *Code of Virginia* and the current regulation regarding background checks;
3. Health requirements for caregivers and household members;
4. First aid certification;
5. Staffing and supervision;
6. Physical environment and equipment;
7. Care of children;
8. Nutrition and food service;
9. Transportation;
10. Medication management and first aid supplies;
11. Behavioral guidance.]

Exceptions:

1. The regulation, General Procedures and Information for Licensure, is not applicable to homes that are members of the licensed system.
2. The family day system shall comply with the recordkeeping requirements in 22 VAC 40-121-370 and 22 VAC 40-121-380.

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22 VAC 40-121-220. Approval determination.

A. Prior to approval of any home as a member of the system, the system shall determine that the home complies with the criteria and requirements established by the system in accordance with 22 VAC 40-121-210.

B. The investigation shall include interviews with all adult members of the household and at least two interviews with the day care applicant provider, one of which shall take place in the home where care will be provided to the children.

C. The capacity of the home shall be determined, including evaluation of any unusual conditions.

1. In no case shall the capacity of the member home exceed 12 children, excluding the provider's own children and any children who reside in the home.

2. If the day care provider has other on-going responsibilities within or outside the home that can reasonably be expected to divert time and attention from the operation of the member home, this factor shall be considered in determining the approved capacity of the member home and the record shall contain documentation of this evaluation.

D. The compliance investigation, including how capacity was determined, shall be documented and a copy of the compliance investigation maintained in the applicant home's record.

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22 VAC 40-121-230. Approval notification.

A. Within 30 days following completion of the compliance investigation required in 22 VAC 40-121-220, the system shall provide written notification to the applicant home of the results of the investigation, to include any corrective action required. The corrective action plan will briefly describe any standard, system policy or procedure not met, the action to be taken to meet it, the date by which it will be completed and the signature of the provider.

B. The approval notification shall include the capacity of the home.

C. The approval notification shall be accompanied by an approval certificate that shall be posted in a place that is conspicuous to the public in each approved home.

22 VAC 40-121-240. Annual evaluation.

Each member home shall be approved annually. The same approval process shall be used as described in 22 VAC 40-121-230.

22 VAC 40-121-250. Agreements with member homes.

A. The system shall have a written agreement with each member home that specifies at least the following:

1. The home's agreement with the system's policies and procedures in the areas identified in 22 VAC 40-121-30 B.

2. A Financial agreement between the system and the member home;

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3. The system's role in assisting the home in developing a plan to meet the needs of each child accepted for care;
 4. The system's role in planning for regular conferences between the home and parents of children in care;
 5. The system's responsibility for supervision of children's care and adjustment;
 6. The rights and responsibilities of the system to evaluate, approve, monitor, inspect, supervise, suspend or terminate approval, and provide technical assistance and consultation to member homes;
 7. The system's responsibility to refer children to available health and social services;
 8. The system's right to remove a child from the home and the conditions under which a child may be moved;
 9. The member home's agreement not to accept a child from any source other than the system responsible for the home without the prior approval of the system; and
 10. The member home's agreement to comply with the reporting requirements in ~~22 VAC 121-80~~ [standards for licensed family day homes].
- B. This agreement shall be signed prior to referral of children to the member home.
- C. The system shall maintain a copy of the agreement in the member home's record and shall provide a copy to the member home.

22 VAC 40-121-260. Orientation of providers.

- A. Prior to approval as a member home, the system shall provide training in the following areas for each day care provider:

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1. Department-approved orientation program on the applicable sections of the current regulation, Standards for Licensed Family Day Homes;

2. Orientation to the system;

3. Confidential treatment of information about children and their families;

4. Child abuse and neglect reporting requirements.

B. Within the first three months after approval as a member home, the system shall provide training in the following areas for each day care provider;

1. Organizing for family day care;

2. Child growth and development;

3. Nutrition;

4. Developmentally appropriate activities;

5. Community resources;

6. Behavior management and discipline techniques;

7. Parent-provider relationships;

8. Home safety and fire safety;

9. Appropriate toys for mixed age groups of children; and

10. Recognition and prevention of the spread of communicable diseases.

C. The orientation requirement[s] may be waived if the system certifies equivalent competency in these subject areas. System-developed methods of competency certification shall be subject to review and approval by the department prior to its use.

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D. The system shall describe and document the content and hours of orientation received by each provider or the equivalent competency or both. The documentation shall be kept on file at the system office as part of the member home's record.

22 VAC 40-121-270. Training of caregivers.

A. The system shall provide a minimum of 12 clock hours of annual in-service training to caregivers. [The system shall provide a minimum of 10 clock hours of training annually to caregivers. One year after the effective date of the regulation, the number of training hours shall increase to 12 clock hours annually. Two years after the effective date of the regulation, the number of training hours shall increase to 14 clock hours annually. Three years after the effective date of the regulation, the number of training hours shall increase to 16 clock hours annually.]

B. The licensee shall describe and document the content and hours of on-going training received by each provider and shall keep this documentation on file at the system office as part of the member home's record.

22 VAC 40-121-280. Qualifications of trainers.

A. All trainers used, including those under contract, shall have an A.A., B.A., B.S., or advanced degree in early childhood education (ECE), child development, home economics, psychology, nursing, social work, special education or related field from an accredited college or university (the degree must directly relate to the area of training).

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B. Alternatives to the education requirements in subsection A of this section will be considered on an individual basis for specialized subject matter that is relevant for child care providers but that does not require academic preparation in early childhood education. The trainer must provide the following documentation for consideration:

1. Written description of education related to the field of expertise under consideration;

and

2. Brief explanation of how the area of expertise relates to early childhood care.

22 VAC 40-121-290. Technical assistance and consultation.

A. The system shall provide technical assistance and consultation to member homes including, but not limited to, the following:

1. Information and guidance on child development, discipline, safety, children with special needs, nutrition, and provider support services;

2. Information on training resources;

3. Information on community resources; and

4. Toys and equipment.

B. Technical assistance and consultation provided to member homes shall be recorded in the member home's record.

22 VAC 40-121-300. Monitoring.

A. The system shall inspect each member home at least quarterly in order to ensure that the home continues to comply with the system's standards.

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B. At least two of the monitoring inspections shall be unannounced.

C. The results of the monitoring inspections shall be documented in the member home's record.

D. The department, at any time, may make an announced or unannounced inspection of a member home in order to ensure continued compliance with the applicable provisions of these standards. The results of such inspections shall be provided to the system.

22 VAC 40-121-310. Complaint investigation.

A. The licensee shall investigate any complaints regarding alleged violations of the Standards for Licensed Family Day Systems by any member home. At its discretion the department's representative may also investigate complaints regarding alleged violations of the Standards for Licensed Family Day Systems by member homes or other pertinent requirements.

B. A complete investigation shall be made, by the licensee, of each complaint received.

This investigation shall:

1. Be initiated within five working days following the receipt of the complaint;
2. Be completed within 14 days following receipt of the complaint;
3. Include at least one inspection to the member home on which the complaint was received; and
4. Unless clearly justified by the circumstances, be unannounced and without prior notification of the complaint to the provider.

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C. A copy of the complaint record shall be placed in the record of the member home against which the complaint was made.

D. A copy of the complaint record shall be provided to the assigned licensing office within 10 days of the date the complaint investigation is completed.

E. When the complaint concerns a specific child, a copy of the completed record shall be placed in the child's record maintained by the system.

22 VAC 40-121-320. Child abuse or neglect complaint.

A. The family day system shall immediately notify the local department of social services child protective services unit or the Child Abuse and Neglect Hotline (1-800-552-7096/TDD) whenever there is reason to suspect that a child has been or is being subjected to any kind of child abuse or neglect by any person. The system shall also immediately thereafter call the department's representative to report the suspected abuse or neglect complaint.

B. The family day system shall cooperate with the local department of social services in the investigation of the child abuse or neglect complaint.

C. Written notification of the complaint shall be sent within 72 hours to the local department of social services child protective services unit and to the assigned licensing office.

D. Copies of the written notifications to the local department of social services and the assigned licensing office shall be placed in the file of the member home against which the complaint was made.

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E. If the complaint suggests that the suspected abuse or neglect occurred while the child was in care or was perpetrated by the home's provider or household members, the system staff shall immediately consult with Child Protective Services or the police, if necessary, to plan the system's investigation of the member home and to determine the safety of other children in care.

22 VAC 40-121-330. Complaint records.

A. Each complaint on a member home that is received by the system shall be recorded on a complaint record that includes, but is not limited to, the following:

1. Name and address of system home;
2. Name, address and telephone number of complainant;
3. Method by which the complaint was made, including the date and time received;
4. Name of person receiving the complaint;
5. Description of the complaint, including dates and times, where applicable;
6. Findings and action taken to include whether the complaint was found to be valid, invalid or its validity was not clearly determined;
7. Name of the person or persons who investigated the complaint and the date the investigation was completed; and
8. Date the complainant was notified of the results of the investigation.

B. Release of information regarding the identity of the complainant shall be governed by the provisions of the Government Data Collection and Dissemination Practices Act, § 2.2-3800 et seq. of the Code of Virginia.

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22 VAC 40-121-340. Corrective action plans.

A. If a complaint against a member home is found to be valid or if the system's monitoring visit reveals violations of the Standards for Licensed Family Day Systems or the system policies and procedures, a written corrective action plan shall be developed, even if the system elects to terminate or suspend its approval of the home. This plan shall be signed by the provider and the system representative, and initiated immediately.

B. The corrective action plan shall specify the standard or system's policy or procedure with which the member home does not comply and specify a date by which the violation shall be corrected.

C. The licensee shall ensure that violations are corrected by the date on the corrective action plan.

D. The system shall make a follow-up inspection to the member home [when necessary] to ensure the violations listed on the corrective action plan are corrected.

E. A copy of the corrective action plan shall be maintained in the record of the member home and on file at the member home.

22 VAC 40-121-350. Suspensions and terminations.

A. The system may suspend or terminate approval of a member home for cause, including, but not limited to:

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1. Failure to comply with the standards set forth in the Standards for Licensed Family Day Systems or the system's policies and procedures;

2. Use of fraud or misrepresentation in obtaining approval or in the subsequent operation of the member home.

B. When a member home is found to be in violation of any of the provisions of subsection A of this section, the system shall notify the provider of the violation or violations first orally and then in writing, and, as appropriate, shall afford the provider an opportunity to abate the violation or violations within a time frame agreed upon by the system and the provider in the corrective action plan.

C. The provider shall immediately abate any violation that places children at risk of abuse, neglect or serious harm or injury.

D. The system shall suspend or terminate approval of the member home if the provider fails to abate the violation or violations within the agreed upon time frame or commits a subsequent violation.

E. The system shall give written notice to the provider within five calendar days, specifying the reason for suspension or termination. The notice shall be delivered either by hand or by certified mail with return receipt requested.

F. Copies of the notification of member home suspension or termination required by subsection E of this section shall also be provided by the system to the assigned licensing office.

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PART V.

SERVICES TO CHILDREN AND FAMILIES.

22 VAC 40-121-360. Referral to member homes.

A. Children shall be referred only to member homes that have completed the approval process.

B. The system shall not knowingly refer a child to a member home that has reached its approved capacity.

C. A representative of the system shall interview the parent or parents and child prior to referral.

D. The parent and child or children shall visit the member home where care will be provided prior to acceptance into care.

22 VAC 40-121-370. Records on children referred for care.

A. The system shall maintain a record on each child accepted by the system and referred to a member home for care. The record shall be kept current and contain the following:

1. Copy of the child care agreement required by 22 VAC 40-121-380;

2. Record of placement that contains the name of each member home in which the child has received care, the date referred for care and the date and reason care was terminated;

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3. The child's full name, nickname (if any), address and birthdate;
4. Copy of the following emergency contact information:
 - a. Name, address and telephone number of each parent;
 - b. Name, address and telephone number of each parent's place of employment;
 - c. Name, office address, and telephone number of the child's physician;
 - d. Name, address and telephone number of two designated persons to contact in case of an emergency if the parent cannot be reached;
 - e. Information on allergies and intolerance to food, medication, or any other substances; written instructions signed and dated by a physician on actions to take in an emergency related to the allergy or intolerance;
 - f. Name of the parent's hospitalization plan and number or medical assistance plan and number, if applicable;
5. Proof of the child's age and identity and the names and addresses of previously attended child day care and schools.
 - a. Within seven business days of the child's first day of attendance at the family day home, the provider shall obtain from the parent:
 - (1) Verification of the identity and age of the child; and
 - (2) Name and location (city and state) of day care programs and schools the child has previously attended.
 - b. Providers shall verify the identity and age of a child by viewing one of the following:
 - (1) Original certified birth certificate;
 - (2) Original birth registration card;

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(3) Original notification of birth (hospital, physician, or midwife record);

(4) Original passport;

(5) Copy of the placement agreement or other proof of the child's identity from a child placing agency;

(6) Original or carbon copy (not photocopy) of a record or report card from a public school in Virginia; or

(7) Signed statement on letterhead stationery from a public school principal or other designated official that assures the child is or was enrolled in the school.

c. The provider shall document in the child's record:

(1) The method of verification of the child's age and identity; and

(2) The names and locations of the child's previous child care programs and schools.

d. The provider shall notify the local law enforcement agency if the parent does not provide the information required in subsection 5 of this section within seven business days of the child's first day of attendance at the family day home.

[e. The proof of identity, if reproduced or retained or both, shall be destroyed upon the conclusion of the requisite period of retention.]

[f. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying any social security numbers in these records to make them unreadable or indecipherable by any means.]

6. Immunizations for children.

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a. The provider shall obtain by the first day of attendance and shall maintain documentation that each child is up-to-date for all immunizations required by the State Board of Health.

b. Exceptions.

(1) Documentation of immunizations is not required for any child whose parent submits an affidavit to the family day home on a Department of Health-approved form stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices;

(2) Documentation of immunizations is not required for any child whose physician or local health department states on a Department of Health-approved form that one or more of the required immunizations may be detrimental to the child's health.

(a) The statement shall include an estimated date when immunizations can safely be administered.

(b) The child shall obtain the immunizations no later than 30 days after this date.

7. Physical examination for children.

a. The provider shall obtain documentation of a physical examination by or under the direction of a physician prior to a child's attendance or within 30 days after the first day of attendance. The physical examination prior to attendance shall have been conducted:

(1) Within 60 days prior to attendance for children six months of age or younger;

(2) 90 days prior to attendance for children age seven months through 18 months;

(3) Six months prior to attendance for children age 19 months through 24 months;

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(4) Twelve months prior to attendance for children two years of age through five years of age; and

(5) 24 months prior to attendance for children six years of age and above.

b. Exception: Physical examinations are not required for any child who shows no visible evidence of sickness and whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that, to the best of the parent's knowledge, the child is in good health and free from communicable or contagious disease.

8. Transfer of immunization or physical examination reports. A new report of physical examination and immunizations is not required for children transferring from a facility licensed or registered by the Virginia Department of Social Services, certified by a local department of social services, or approved by a licensed family day system if the initial report or copy of the initial report of the physical examination and immunizations is available to the admitting family day home.

9. Forms and content of immunization and physical examination reports for children.

a. The current form approved by the Virginia Department of Health, or any form that provides all of the same information, shall be used to record immunizations received and the results of the required physical examination.

b. Each report shall include the date of physical examination and dates immunizations were received and shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

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10. Updated information on immunizations received shall be obtained once every six months for children under the age of two years.

11. Updated information on immunizations received shall be obtained once between each child's fourth and sixth birthdays.

12. Record of each referral of the child or the family to health and social services.

13. Copy of each complaint investigation as required by 22 VAC 40-121-310 C.

B. Children's records shall be kept in a locked area, and retained by the system until three years after termination of services.

22 VAC 40-121-380. Written agreements.

A. A written agreement shall be made between the system and the parent when a referral is made to a member home.

B. The written agreement shall contain the following:

1. An authorization for emergency medical care should an emergency occur and the parent cannot be located immediately (Note: If the parent presents a written objection to provision of medical treatment on religious or other grounds, this document shall be provided to emergency medical personnel);

2. Information on any special services to be provided by the family day home;

3. Information on the hours of care per day, week, or month; cost of care per day, week, or month; frequency and amount of payment per day, week or month;

4. Notice of any special problems or needs of a child;

5. Granting or denying permission for field trips;

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6. Granting or denying permission for participation in swimming activities;
 7. Any other referral information;
 8. Agreement regarding the home in which the child will be placed;
 9. Name and address of the provider;
 10. Information regarding the means by which care will be provided in the event the primary day care provider is ill, on vacation or otherwise unavailable due to an emergency;
 11. Statement that system staff members of both the system and member home in which the child receives care will be available for parent conferences; and
 12. Information regarding the role of the system in referring children when the approval of a member home is terminated or suspended.
- C. A signed copy shall be maintained in the child's record at the system office, a signed copy given to the parent, and a signed copy maintained in the child's record at the member home.

22 VAC 40-121-390. Referral to health and social services.

- A. The system shall maintain a current listing of health and social services available in the community and shall refer providers and parents of enrolled children upon request.
- B. The system shall record in the child's record all referrals of the child and his family to health and social services agencies.

STANDARDS FOR LICENSED FAMILY DAY SYSTEMS

I certify that this regulation is full, true and correctly dated.

Julie Christopher, Chair
State Board of Social Services
December 15, 2004