Introduction

Purpose of the Manual

The Family Child Care Registration Manual (Manual) is used as a reference for Office of Child Care (OCC) licensing staff, registered family child care providers, and for those who apply to become family child care providers. The Manual primarily provides assistance in interpreting and applying Code of Maryland Regulation (COMAR) requirements when child care facilities are inspected for compliance by licensing staff. By providing a comprehensive set of interpretive guidelines, the Manual enables family child care providers to achieve and maintain compliance, and enables licensing staff to assess provider compliance in a consistent and equitable manner.

Contents and Use of the Manuals

The Manual is divided into chapters. Each chapter corresponds to the chapter number and subtitle of the related COMAR (Example –COMAR 13A.15 .01 Scope and Definitions). Each chapter is posted individually with its own table of contents listing the applicable subsections. Each chapter and subtitle includes the full text of the regulations found in each subsection of the chapter, the intent of the regulation, the inspection report item, the compliance criteria, the method by which compliance with the regulation is assessed, and reference notes, as applicable. The text of each regulation appears in bold type. The guidance information appears in italics. The referenced forms and resource documents appear in Red italics.

The Intent explains the regulation in more detail and the reason for the regulation.

The Inspection Report Item refers to the exact location on the Electronic Licensing Inspection System (ELIS) inspection form, or the paper Inspection Report where compliance or noncompliance with the regulation is recorded during an inspection.

The Compliance Criteria set forth the specific elements that OCC licensing staff will use in determining whether or not the inspection report item is in compliance.

The Assessment Method addresses the means by which licensing staff will evaluate the compliance criteria.

The Notes provide further details, explanations, or reference to resource materials and/or forms. Some of the “Notes” have been included only to give additional helpful information.

The referenced Forms and Resource Documents are easily accessed on the Licensing Branch website in the “Forms” and “Resource Documents” locations.
FAMILY CHILD CARE REGISTRATION MANUAL
(November 2016)

for use with

COMAR 13A.15.01-.15 Family Child Care
(as amended effective 7/20/15)

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(November 2016)

For use with

COMAR 13A.15 - FAMILY CHILD CARE
(As amended effective 7/20/15)

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COMAR 13A.15.01 SCOPE AND DEFINITIONS

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.01 Purpose.
The purpose of registration of family child care homes is to:
A. Protect the health, safety, and welfare of children while they are in family child care; and

**INTENT:** When a parent or guardian gives the care and supervision of a child to another person, there may be certain risks for the child. To offset these risks, rules and regulations have been established to protect the health, safety, and welfare of children in out-of-home care. Under Maryland law, family child care registration ensures that providers meet certain minimum standards for child health and safety and the operation of a child care program.

B. Identify family child care homes.

**INTENT:** With certain exceptions, Maryland law requires caregivers to become registered as family child care providers before they are permitted to provide care. Persons who meet the requirements of COMAR 13A.15 are issued a certificate of registration. Possession of this certificate identifies a person as someone who is authorized by the State of Maryland to provide family day care.

**Notes:** COMAR 13A.15 regulations are adopted and enforced by the Maryland State Department of Education, Division of Early Childhood Development, Office of Child Care, under the statutory authority of the Education Articles, §9.5-301 through §9.5-312, and the State Government Article, Section 10-617, Annotated Code of Maryland.

.02 Definitions.
A. In this subtitle, the following terms have the meanings indicated.
B. Terms Defined.
   (1) "Abuse" means:
      (a) The physical or mental injury of a child, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed, by:
          (i) A parent;
          (ii) An individual who has permanent or temporary care or custody or responsibility for supervision of a child; or
          (iii) A household or family member; or
      (b) Sexual abuse of a child, whether physical injuries are sustained or not.
   (2) “Acute illness” means an abnormal condition of the body with rapid onset that has a short course of duration, as opposed to a chronic illness of long duration.
   (3) "Additional adult" means an individual 18 years old or older who assists a family child care provider in caring for children who are younger than 24 months old.
"Agency" means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.

"Agency representative" means an individual designated by the Agency to determine compliance with this subtitle.

"Applicant" means a person who has submitted to the office all of the required forms and documentation to request approval for initial registration or for continuing registration.

"Approved training" means course work or a workshop provided by:

a. A regionally accredited college or university;
b. A State-approved private career school;
c. The Child Development Associate National Credentialing Program;
d. Other organizations or individuals approved by the office; or
e. The Agency.

"Child" means an individual who is younger than:

a. 13 years old; or
b. 21 years old and has a developmental disability or other emotional, physical, educational, or medical need for child care beyond 13 years old.

"Continuing registration" means a family child care registration that does not expire.

"Core of knowledge" means the competencies identified by the office as essential for all individuals working in the child care delivery system, including:

a. Child development;
b. Curriculum;
c. Special needs;
d. Professionalism;
e. Community; and
f. Health, safety, and nutrition.

"Department" means the Maryland State Department of Education.

"Elective training" means training at a conference, seminar, or other event that is approved by the office but is not in a core of knowledge competency area.

"Employee." means an individual who for compensation is employed to work in a family child care home and who:

a. Cares for or supervises children in the facility; or
b. Has access to children who are cared for or supervised in the facility.

c. "Employee" includes a paid substitute.

d. "Employee" does not include an individual who is:

i. An independent contractor; or
ii. A licensed or certified health care professional who is compensated by the family child care provider or the parent of a child in care to provide a specified health care service to the child.
(d) For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record review requirements set forth in this subtitle, "employee" includes an individual who:

(i) Is compensated by the provider or a resident to perform a service at the family child care home;

(ii) Has access to children in care; and

(iii) Does not clearly meet, or is not excluded from, the definition of independent contractor as set forth in §B (19) of this regulation.

(14) "Family child care" has the same meaning as family day care as defined in Education Article, §9-101(e), Annotated Code of Maryland, and means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.

(15) "Family child care co-provider" means an individual who shares responsibility with the family child care provider for the operation of the family child care home and who meets the requirements of this subtitle.

(16) "Family child care home" means the residence in which child care is given.

(17) "Family child care provider" means the adult who has primary responsibility for the provision of child care in the family child care home and who meets the requirements of this subtitle.

(18) "Identified as responsible for child abuse or neglect" means being determined by a local department to be responsible for indicated child abuse or neglect, or awaiting the local department’s appeal hearing after the determination.

(19) Independent Contractor.

(a) "Independent contractor" means an individual or other entity:

(i) That is hired by the family child care provider, a resident, or the parent of a child in care, on the basis of a service contract or agreement, to perform a specialized service at the family child care home, including, but not limited to, home maintenance or repair, academic tutoring, or recreational programming, for a specified period of time or in order to achieve a specified result;

(ii) That determines how the specialized service shall be performed; and

(iii) Whose specialized service is not restricted to the family child care home, but is available for hire by other customers.

(b) "Independent contractor" does not include an individual who:

(i) Is a licensed or certified health care professional compensated by the family child care provider to provide a specified health care service to a child in care;

(ii) Under a private arrangement with the parent or guardian of a child or children in care, provides a health care, educational, or other service only to that child or those children; or
(iii) Is employed for compensation by a public school or by a private or nonpublic school required to report annually to the State Board of Education.

(19-1) "Infant-toddler" means a child age group comprising children younger than 2 years old.

(20) "Injurious treatment" means:
(a) Deliberate infliction in any manner of any type of physical pain, including spanking, hitting, shaking, or any other means of physical discipline, or enforcement of acts which result in physical pain;
(b) Failure to attend to a child's physical needs and other physically damaging acts, excluding reasonable acts to protect the child from imminent danger;
(c) Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, or ridiculing; and
(d) Utilizing discipline methods that are considered inappropriate by child care professionals and create undue discomfort, such as washing a child's mouth with soap, putting pepper or other spicy or distasteful items in a child's mouth, requiring a child to stand on one foot as punishment, or tying a child to a cot or other equipment.

(21) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.

(22) "Neglect" means leaving a child unattended or otherwise failing to give proper care and attention to a child by the child's parents, guardian, or custodian under circumstances that indicate that the child's health or welfare is significantly harmed or placed at risk of significant harm.

(23) "Office" means the central office or a regional office of the Agency.

(24) Overnight Care.
(a) "Overnight care" means family child care that is provided between the hours of 12am and 6am.
(b) "Overnight care" does not include family child care provided to a child enrolled for care during daytime or evening hours that, because of the parent's schedule, must remain at the family child care home for up to 1/2 hour after 12 a.m. or arrive up to 1/2 hour before 6 a.m.

(25) "Parent" means the biological or adoptive parent, or the legal guardian or custodian of a child, who enrolls the child in care.

(26) "Professional development plan" means the written instrument for tracking continued training that is:
(a) Distributed by the office to a provider; and
(b) To be completed annually by the provider.

(27) "Provider" means the individual or individuals to whom a family child care certificate of registration is issued under this subtitle.

(28) Relative.
(a) "Relative" means an individual related to a child by blood, marriage, or adoption.
(b) "Relative" includes a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, first or second cousin, great grandparent, great uncle, or great aunt.

(29) "Resident" means a person who lives in the family child care home.

(30) "Sanction" means an enforcement action under this subtitle.

(31) "Substitute" means an adult who is responsible for the operation of a family child care home when the provider is absent.

(32) "Successfully passed" means, when used in connection with a criminal background check or a review of records of abuse and neglect of children or adults conducted on an individual, that the individual:
   (a) Has not received a conviction, a probation before judgment disposition, or a not criminally responsible disposition, or does not have a pending charge for the commission or attempted commission of a crime that:
      (i) Is listed at COMAR 13A.15.02.07B(1)—(11); or
      (ii) Indicates other behavior harmful to children; or
   (b) Has not been identified as responsible for the abuse or neglect of a child or an adult.

(33) "Superintendent" means the State Superintendent of Schools or the Superintendent’s designee.

(34) "Treatment foster care" means a 24-hour substitute care program, operated by a licensed child placement agency or local department of social services, for children with a serious emotional, behavioral, medical, or psychological condition.

(35) Volunteer.
   (a) "Volunteer" means an individual who:
      (i) Is 13 years old or older;
      (ii) Works in or for the family child care program but is not a compensated employee of the provider; and
      (iii) Is not enrolled as a child in care at the family child care home.
   (b) "Volunteer" does not mean an additional adult or a substitute.

**INTENT:** The purpose of these definitions is to establish a clear and consistent meaning of certain terms used in COMAR 13A.15. Whenever one of these terms appears in this chapter of regulations, it shall mean only what its definition, as set forth above, says it means.
Family Child Care Registration Manual
(November 2016)

For use with

COMAR 13A.15 - Family Child Care
(As amended effective 7/20/15)

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COMAR 13A.15.02

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.01 Registration—General Requirements

A. Requirement to Be Registered.

(1) Except as provided under §A(2) of this regulation, an individual may not operate a family child care home unless:
   (a) Both the individual and the home meet the requirements for registration set forth in this subtitle; and
   (b) The individual possesses a valid certificate of registration.

**INTENT:** Maryland law requires family child care programs to be registered. Registration is a type of licensure, and it indicates that a program has met minimum child health and safety standards. The regulations contained in COMAR 13A.15.02.01 specify in detail what the registration requirements are. Unless exempt from these requirements, a family day care provider must be registered before she or he may provide child care.

Note: Operating a family child care home without a valid registration is a violation of Maryland law and may result in criminal prosecution.

(2) A family child care home is not required to be registered if the provider:
   (a) Is a relative of each child;
   (b) Is a friend of each child’s parent or legal guardian and the care is provided on a non-regular basis of less than 20 hours a month; or
   (c) Has received the care of the child from a child placement agency licensed by the Department of Human Resources.

**INTENT:** Care of children by their relatives is a private matter. Informal arrangements made between friends or neighbors to care for each other’s children on an occasional basis do not rise to the level of child care services appropriate for government regulation.

(3) In this subtitle, all requirements pertaining to a family child care provider shall apply equally to a family child care co-provider, except that the co-provider is not required to reside in the child care home.

**INTENT:** If there is a co-provider, the registration certificate is issued to both the provider and the co-provider. This means that, for legal purposes, there is no distinction between the rights and responsibilities of the provider and the co-provider with respect to operation of the program. Therefore, both are considered to be fully responsible for complying with all applicable regulations under COMAR 13A.15.

B. Types of Registration. The office may issue:

(1) An initial registration, which may be issued on a provisional basis pursuant to Regulation .04A of this chapter; or
A continuing registration, which may be:
(a) Issued on a provisional basis under Regulation .04A of this chapter; or
(b) Placed on a conditional status under Regulation .04B of this chapter.

C. A certificate of registration:
(1) May not be transferred to another individual or residence; and
(2) Remains the property of the office.

**INTENT:** A certificate of registration may be issued only to a specific applicant for operation at a specific location. Any change in the applicant or the location requires issuance of a new certificate. Similar to a driver’s license, a certificate of registration continues to belong to the issuing agency (OCC) even though it is in the physical possession of the provider. The provider owns the right to operate that is conferred by the certificate, but does not own the certificate itself.

D. The provider shall display conspicuously the certificate of registration in a location where it can easily be seen and read by parents whose children are in the provider's care or who are considering placing their children in the provider's care.

**INTENT:** The certificate of registration must be plainly displayed so that parents and visitors can easily determine if the provider is authorized to operate a child care program at the home and, if so, the conditions under which that authorization has been granted (i.e., days and hours of operation, maximum capacity, etc.).

**INSPECTION REPORT ITEM:** “Certificate Conspicuously Displayed”

**COMPLIANCE CRITERIA:** The certificate is placed or posted where parents and other visitors to the home can readily notice, see, and read it.

**ASSESSMENT METHOD:** Observe the location and visibility of the certificate.

E. The provider shall surrender the certificate of registration to the office immediately when any of the following occurs or becomes effective:
(1) The provider closes the family child care home permanently;
(2) The registration becomes invalid pursuant to §H(2) of this regulation;
(3) The registration is revoked;
(4) The registration is suspended; or
(5) The initial registration expires, and:
   (a) The application for an initial or a continuing registration is denied; or
   (b) The provider has not applied for a continuing registration.
INTENT: Once a certificate of registration is issued, it confers a certain property
right that cannot be taken away by the State without due process of law. However,
the certificate document itself is State property and must be returned to the State if
the provider’s registration is suspended or revoked, or if the provider decides to close
the home and quit doing child care.

F. Except as provided under §G of this regulation, a residence approved for use under
a family child care registration may not also be used to operate a:
(1) Family child care program under a different registration; or
(2) Child care program that is subject to the requirements of COMAR 13A.16 or
13A.17.

G. A residence approved by the office before July 1, 2008, for the concurrent operation
of more than one family child care program or more than one type of child care
program may continue to be used to operate those programs, except that, while
concurrent approvals are in effect, the office may not approve a request by the
provider for:
(1) An increase in child capacity;
(2) A change in the hours of operation;
(3) A change in the ages of children served;
(4) A change in the approved child care area; or
(5) A variance to a regulation under this subtitle.

INTENT: To “grandfather” residences with the concurrent operation of several
programs which were in existence prior to 7/1/08, and to restrict certain
modifications to those programs.

H. Residence of Applicant or Provider.
(1) Unless currently approved for the purpose, the office may not approve a
residence for use as a child care home that is not the primary residence of the
family child care registration applicant.
(2) A family child care home registration is subject to revocation if the home is no
longer the primary residence of the provider.

02 Initial Registration.
A. An application for initial registration shall be filed with the office by an individual
who wishes to operate a registered family child care home and who:
(1) Is not currently a registered family child care provider; and
(2) Has not been registered as a provider for at least 6 months before the date of
application.
B. An applicant for an initial registration shall:
(1) Complete an orientation to family child care regulations that is offered or
approved by the office;
INTENT: The orientation process provides information about family day care registration requirements and the registration application process. The orientation is offered on-line at http://earlychildhhod.marylandpublicschools.org/child-care-providers/licenising/orientations

(2) Submit a completed application form, supplied by the office, for initial registration;

(3) Submit a medical evaluation for the applicant and each resident in the home that:
   (a) Was completed within 12 months before the date of application for registration;
   (b) Was conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant; and
   (c) Is signed or verified by the individual who conducted the evaluation;

INTENT: A family child care provider and residents of the home must be free of any communicable disease that would prohibit the person from working with or being around children. The provider must be able to participate fully in a program for active youngsters. This might include lifting infants and young children, getting up and down from the floor, lively outdoor activities, and moving furniture. It may also include transporting children in a motor vehicle. Therefore, the person must be evaluated for any physical condition that might adversely affect his or her performance. See “Medical Report for Child Care” OCC 1204 form.

(4) Apply for a federal and State criminal background check at a designated office in the State;

(5) Ensure that an application for a federal and State criminal background check is made at a designated office in the State by each:
   (a) Resident in the home who is 18 years old or older;
   (b) Individual paid to serve as the provider's substitute; and
   (c) Paid employee of the family child care home who is 14 years old or older;

INTENT: To ensure that OCC is aware of the criminal histories of the applicant, individuals living in the home, employees, and others who will have frequent contact with children in care. CBCs for employees 14 years old or older are requested to capture criminal histories of juveniles who may have committed crimes and charged as “adults”.

Notes:

• Whenever submitting a criminal background check (CBC) request, the Provider must include the appropriate OCC Regional Office authorization
number on the CBC request form. Following is a list of the Regional Office authorization numbers:

<table>
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<th>Authorization Number</th>
<th>OCC Regional Office</th>
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<td>1100000016</td>
<td>Region 1 (Anne Arundel Co.)</td>
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<tr>
<td>1100000020</td>
<td>Region 2 (Baltimore City)</td>
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<td>Region 3 (Baltimore Co.)</td>
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<td>Region 4 (Prince George’s Co.)</td>
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<td>1100000086</td>
<td>Region 8 (Caroline, Dorchester, Kent, Queen Anne’s, Talbot Co.)</td>
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<td>1100000090</td>
<td>Region 9 (Somerset, Wicomico, Worcester Co.)</td>
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- This process allows CBC results and subsequent “Alerts” to be sent to the child care provider and OCC.

(6) Submit a signed and notarized release form giving the office permission to examine records of abuse and neglect of children and adults for information about:
   (a) The applicant;
   (b) Each resident in the home who is 18 years old or older;
   (c) Each individual designated as a substitute; and
   (d) If applicable, an additional adult; and
   (e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation;

   See “Release of Information” OCC 1260”

(7) As applicable, submit documentation that:
   (a) The home meets State and local fire, health, and zoning requirements; and
   (b) If the home is located in a condominium or residence which requires homeowners' association membership, the applicant has homeowner's liability insurance coverage as required by Maryland law;

(8) Submit documentation that the applicable training requirements specified in COMAR 13A.15.06.02 have been met; and
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(9) Submit documentation showing that the home has met all applicable lead-safe environment requirements set forth in COMAR 13A.15.05.02.

*Note:* The Provider may track progress in complying with the “Initial Registration” requirements, and prepare for the initial inspection by using the “OCC 1295 – Family Child Care Home Self-Assessment Guide”.

C. If, within 6 months after the applicant submits a completed application form, the office has not received documentation that all applicable requirements of §B of this regulation have been met, the office may consider the application void.

.03 Continuing Registration

A. Application for Continuing Registration. To obtain a continuing registration, a provider shall submit to the office before expiration of the initial registration:

(1) A completed request, on a form supplied by the office, for continued registration;

*INTENT:* Prior to expiration of the initial registration, the provider must apply to convert the certificate of registration to continuing (non-expiring) status. To provide sufficient time for application to be made, OCC shall furnish the provider with an application packet at least 120 days before expiration of the initial registration.

*Note:* At least 120 days before current registration expiration, the Regional Office will transmit to the provider a "Request for Continuing Status" application packet. This packet serves as the 120-day notice of initial registration expiration. Additional notification will occur at least 60 days before registration expiration when the Regional Office Licensing Specialist contacts the provider to schedule the announced "registration conversion" inspection that must be conducted as part of the continuing registration application process. Use “Universal Conversion from Initial to Continuing Cover Letter” to transmit the application packet.

(2) Documentation that the continued training requirements and the first aid and CPR certification requirements set forth in COMAR 13A.15.06.02B-D have been met;

(3) A medical evaluation that meets the requirements of Regulation .02B(3) of this chapter for:

(a) The provider;
(b) Each resident in the home who has child care responsibilities; and
(c) If applicable, the additional adult;

(4) A completed and notarized release of information form that permits the office to examine records of abuse and neglect of children and adults for:

(a) The provider;
(b) Each provider substitute;
(c) Each resident in the home who is 18 years old or older;
(d) If applicable, the:
   (i) Additional adult; and
   (ii) Additional adult's substitute; and
(e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation.

(5) Documentation that the family child care home has passed the most recent fire inspection required by the local fire authority having jurisdiction; and

(6) Any other documentation required by law or regulation.

**INTENT:** A continuing registration will not be issued until the OCC Regional Office has received and approved all required application-related documentation, including documentation that the home has passed a fire safety inspection by the appropriate fire authority.

**Notes:**

- The Provider’s Initial Registration expires after two years with no provision for renewal; therefore, a Continuing Registration must be issued prior to the expiration date of the Initial Registration. If all items required in §A above are not received prior to the Initial Registration expiration date, a Continuing Registration on Provisional status must be issued.

- The registration anniversary month and day must be noted in the remarks section of the registration.

- The “Checklist for Family Home Continuing Application” specifies all the forms and other documentation that the provider will need to submit to the Regional Office. The provider can either mail the completed application “Home Request for Continuing Registration – OCC 673” and all specified documentation, to the Regional Office, or the completed packet may be given to the Licensing Specialist at the time of the registration conversion inspection.

**B. Maintenance of Continuing Registration.**

(1) **By the end of each 12-month period after the date of issuance of a continuing registration,** the provider shall submit to the office documentation that the continued training requirements set forth in COMAR 13A.15.06.02B and C have been met.

   **Note:** Compliance with this regulation is determined during each annual unannounced inspection. The previous full year, based upon the month and day of registration, is reviewed.

(2) **By the end of each 24-month period after the date of issuance of a continuing registration,** the provider shall submit to the office the items specified in
§A (3)—(6) of this regulation.

**INTENT:** While a continuing registration does not expire, the provider must periodically update certain information to avoid an enforcement action which could result in the revocation of the registration.

**INSPECTION REPORT ITEM:** “Continuing Registration”

**COMPLIANCE CRITERIA:** All documentation required to maintain a continuing registration has been submitted.

**ASSESSMENT METHOD:** Review provider file to determine if all required documentation has been submitted.

**Notes:**

- By the end of each 24-month period following issuance of a continuing registration, the provider must provide the following to the Regional Office:
  - Medical evaluations (OCC Form 1204) for the provider, each staff member (if applicable), each resident who has child care responsibilities, and if applicable, the additional adult;
  - Notarized release of information forms (OCC Form 1260) that permits the Office to examine child abuse and neglect of children and adults for:
    - The Provider
    - Each staff member (if applicable)
    - Each provider substitute
    - Each resident in the home who is 18 years old or older
    - If applicable, the Additional Adult and Additional Adult’s substitute
    - Any other individual with regular access to children in care during the approved hours of operation
    - Evidence of current Fire inspection and any other documentation required by law or regulation such as well and septic, if applicable.
  - The Provider may either mail the items listed above to the Regional Office, or keep them on file at the home for presentation and review by the Licensing Specialist during an unannounced inspection visit.

- A criminal background check (CBC) does not need to be updated every 24 months unless the original CBC results were not fingerprint-supported. A person for whom non-fingerprint-supported CBC results
have been received will need to submit biennial "name-check only" CBC requests until such time (if ever) that the person’s CBC results can be fingerprint-supported.

- At least 30 days prior to the registration anniversary date, mail or deliver to the Provider the “Universal 24-Month Maintenance Cover Letter and Checklist” form, OCC 674.

- If all required documentation is not received timely, encourage the Provider to comply just as Provider would if it was a noncompliance resulting from an inspection. DO NOT PLACE PROVIDER ON A CONDITIONAL REGISTRATION SIMPLY FOR NON-RECEIPT OF THIS INFORMATION. The Regional Manager will determine action to be taken based upon the length of time the Provider remains noncompliant.

.04 Provisional and Conditional Status.

A. Provisional Status.

(1) Except as provided in §A (2) of this regulation, to allow an applicant for an initial or a continuing registration additional time to meet all applicable requirements, the office may approve an initial or a continuing registration on a provisional basis for a period of up to 120 days after determining that the health and safety of the children in care are not in imminent danger.

(2) An initial registration may not be approved if the office has not yet received evidence that the applicant and, as applicable, each individual specified in Regulation .02B (5) and (6) of this chapter has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records.

(3) At the end of the provisional period, if all requirements for the initial or continuing registration are not met due to:
   (a) Failure by the applicant to take an action necessary to achieve compliance, the office shall deny the application for registration; or
   (b) Circumstances beyond the control of the applicant, the office may reapprove the provisional status of the registration for one or more additional periods of up to 120 days per period, except that provisional registration status may not be continued for more than 24 months after the start of the first provisional period.

(4) If the office denies a certificate of registration at the end of the provisional period, the applicant or provider does not have a valid registration and shall cease operating.

**INTENT:** A registration on “Provisional” status permits the Provider to provide child care on a temporary basis even though certain necessary requirements have not been fully met. It grants a specified amount of time to meet those requirements. A registration may be issued with a provisional status.
only if the unmet requirements do not represent a threat to the health, safety, or welfare of children in care.

**Notes:**

- When removing an applicant from provisional status to registration, be sure to include the provisional time period(s) in the two-year expiration/anniversary date. For example:

  - The Provisional Registration was issued on February 22, 2016 for 120 days. Another “provisional” was issued on June 22, 2016 for another 60 days ending August 21, 2016. The Provider met all requirements on August 21, 2016. The registration would be issued with the start date of August 22, 2016 and calculate the expiration/anniversary date by using the 1st “provisional” dated February 22, 2016 which would result in an expiration/anniversary date of January 31, 2018.

- The Regional Office may conduct unannounced monitoring inspections of the Provider’s home during a provisional registration period.

**B. Conditional Status.**

(1) If a provider who holds a continuing registration fails to remedy a violation as required, the office may place the registration on conditional status for:

   (a) A period of up to 120 days; and

   (b) Upon approval by the Agency's central office, an additional period of up to 120 days.

(2) Upon placing a continuing registration on conditional status, the office shall issue to the provider a revised certificate of registration that states the:

   (a) Placement of the registration on conditional status;

   (b) Period of time of the conditional status; and

   (c) Requirements for lifting the conditional status.

(3) Immediately upon receipt of the revised certificate of registration, the provider shall:

   (a) Remove from display in the home the certificate of continuing registration that was originally issued; and

   (b) Display the revised certificate as required by Regulation .01D of this chapter.

(4) If the provider satisfies all requirements for lifting the conditional status within the specified period of time, the office shall promptly:

   (a) Discontinue the conditional status; and

   (b) Notify the provider to redisplay the original certificate of continuing registration.
(5) If the provider fails to satisfy all requirements for lifting the conditional status within the specified period of time, the office may suspend or revoke the continuing registration.

**INTENT:** After a continuing registration is issued, if a Provider fails to correct certain non-compliances, OCC may replace the continuing registration with a revised registration placing it on conditional status. Conditional status is issued for a specified period of time and sets forth specific requirements for reinstatement of the continuing registration. If the Provider has still failed to make the necessary corrections by the end of the specified timeframe, the continuing registration may be suspended or revoked.

**INSPECTION REPORT ITEM:** “Conditional Status”

**COMPLIANCE CRITERIA:** The conditional registration is posted in the child care area in a manner that can be easily seen by parents and other individuals visiting the home.

**ASSESSMENT METHODS:**

- Observe to see if the conditional registration is posted.
- Observe the location of the conditional registration to determine if it is visible to parents and other individuals visiting the center.

**Note:** A Continuing Registration is placed on “Conditional” status as a last resort to encourage the Provider to come into compliance with regulations. Placing a provider’s continuing registration on conditional status is optional. Using the progressive discipline process, i.e., warning letters, compliance agreements, and intermediate sanctions, continue to be viable disciplinary options. If these instruments fail, moving on to suspension, emergency suspension, and revocation is appropriate without ever having placed a continuing registration on conditional status.

.05 Resumption of Service.

A. An application to resume service shall be filed by:

   (1) A registered provider who wishes to provide family child care at an address different from that specified on the current certificate of registration; or

   (2) An individual who was previously registered by the office as a provider and who wishes to reregister, if the last effective date of the previous registration is within 6 months of the application.

B. The application to resume service shall meet all initial registration application requirements, except that:

   (1) An abbreviated application form supplied by the office shall be used; and

   (2) The office may accept as applicable to the new application the:
(a) Individual's original completion of the orientation process under Regulation .02B(1) of this chapter;

(b) Original medical reports submitted for the applicant and each resident in the home who will have child care responsibilities if the reports are based on medical evaluations completed within 12 months of the new application;

(c) Results of the original criminal background checks conducted under Regulation .02B(4) and (5) of this chapter, if the new location is within the office's same licensing jurisdiction;

(d) Results of the original child and adult abuse and neglect clearances conducted under Regulation .02B(6) of this chapter, if the clearances were completed within 12 months of the application; and

(e) Individual's original completion of:
   (i) Pre-service training requirements specified at COMAR 13A.15.06.02A; and
   (ii) If applicable, approved continued training requirements specified at COMAR 13A.15.06.02B.

**INTENT:** Because a registration certificate is issued to a specific location as well as to a specific person, a new application is required if the provider relocates to a different residence and wants to continue to provide child care services. The new residence must meet all requirements applicable to a first-time registration. However, since the applicant has previously met the requirements of these regulations, and OCC already has information about the applicant, some of that information can be accepted toward the new application.

**Notes:**

- Because a provider who wishes to re-apply at a new location or to resume providing child care after a break in service is already known to OCC, a short-form application called an “Application to Resume Service” (OCC 349) is used instead of the regular application. However, this option is available only to those who file the new application within 6 months from the date that the previous registration was closed.

- All approved training received by the provider is counted toward satisfaction of the initial registration training requirements specified by regulation.

- The original criminal background check is transferable to the new registration if the new residence is in the same OCC licensing region as the previous one. If the new residence is not in the same OCC region, a new background check application must be submitted. Under CJIS regulations, a criminal background check update can only be sent to the Regional Office through which the background check was originally submitted.
requested. Therefore, if a provider re-opens in a different licensing region without re-applying for a CBC, the update would be sent to the previous Regional Office instead of the current one. If a provisional registration at the new location becomes necessary because completion of the background check is delayed, the receiving Regional Office may issue the provisional on the basis of the background check results already on file at the previous Regional Office.

- Provider and resident medical evaluations are transferable to the new registration if they were done within 12 months of the new application. If a medical evaluation is not current within 12 months, a new one must be submitted.

- A registration for a new address shall not be issued until there has been an inspection of the new residence by the Regional Office, a fire inspection, and a health inspection, if required, by the local health department.

- A registration to resume service at the same location shall not be issued until there has been an inspection by the Regional Office. The original Use and Occupancy permit and other current local government approvals may be transferred to the new registration application.

- Upon approving an application to resume service, the Office shall issue a new continuing registration certificate if the applicant has operated under a continuing registration within 6 months of the application.

.06 Response of the Office to Application.

A. Upon receiving the completed application and all required documentation, whether for an initial registration or a continuing registration, the office shall determine compliance with the requirements of this subtitle by:

1. Evaluating the application and required documentation;
2. Interviewing the applicant;
3. Inspecting the home proposed for use as a family child care home;
4. Evaluating the information provided by State and federal criminal background investigations; and
5. Evaluating the information provided from records of child and adult abuse and neglect.

**INTENT:** The Regional Office must assess all application materials submitted concerning the Provider, the residents in the home, and persons who will have child care responsibilities; and must conduct an inspection of the home to determine compliance with regulations.
Notes:

- Once a complete Initial or Continuing Registration application has been submitted, the Regional Office must assess it in its entirety to ensure that all pertinent application requirements have been met. Before an application can be approved, the home must also be inspected to ensure that all applicable requirements have been met. The Regional office has an obligation to the applicant to complete its review of the application and conduct the required inspection in an expeditious manner.

- When an applicant is ready for an “Initial Inspection”, the majority of the application requirements should have been met, (U&O, Fire, CBCs, Releases, Medicals, Provider Requirements, and Staff requirements, if applicable) leaving only the physical plant, certain program requirements, and certain health and safety requirements to check during the “Initial Inspection”. For special instructions see “Conducting Initial Inspections”.

B. Upon completing the procedures in §A of this regulation, the office shall, within 30 days:

1. Issue a certificate of registration to operate the family child care home in accordance with the provisions of this subtitle if:
   a. The application is complete;
   b. All required documentation has been received; and
   c. The office is satisfied that the applicant and the home meet the requirements of this subtitle;

2. Deny the certificate of registration if the office determines that the applicant or the home does not meet the requirements of this subtitle; or

3. Issue a provisional certificate of registration in accordance with Regulation .04A of this chapter.

**INTENT**: Once the complete application has been evaluated and the home has been found to be in compliance with all applicable requirements, the Regional Office has an obligation to approve or deny the registration in an expeditious manner.

.07 Denial of a Registration Application.

A. The office may deny a certificate of registration if:

1. The applicant, a resident, any substitute, or the home in which child care is to be provided fails to meet the requirements of this subtitle;

2. An evaluation of the application by the office reveals that the applicant reported false information;

3. The applicant has a documented history of serious or repeated regulatory violations of this subtitle or other regulations of any state concerning the care of
children or adults that demonstrates an inability to provide for the health or safety of children;

(4) The applicant has had a certificate of registration, a child care center license, or a letter of compliance denied or revoked before the date on the registration application, unless the office is satisfied that the condition that was the basis for the denial or revocation has been corrected;

(5) The applicant prevents the office from completing its responsibilities for registration;

(6) Upon evaluating the physical condition of the home and surrounding premises, the office finds conditions that are unsafe or unhealthy;

(7) An evaluation of the medical report or other information about the applicant or a resident indicates that the:
   (a) Physical or mental health of the applicant or resident may pose a risk to children; or
   (b) Applicant is unable to care for children;

(8) In addition to the requirements set forth at §B of this regulation, an evaluation of the criminal record of the applicant, a paid additional adult, a paid substitute, or a resident in the home reveals that the individual has a criminal conviction, probation before judgment, or not criminally responsible disposition, or is awaiting a hearing for a criminal charge that indicates other behavior harmful to children;

(9) An evaluation of the information provided in records of abuse and neglect of children and adults reveals that the applicant, an additional adult, a substitute, or a resident is identified as responsible for abuse or neglect of children or adults, or is currently under investigation for alleged acts of abuse or neglect of children or adults;

(10) Based on an interview with the applicant or an evaluation of other pertinent information, the office finds evidence that raises reasonable doubt that the applicant can provide for the welfare of children in care; or

(11) The applicant is:
   (a) Providing treatment foster care to a child in other than a pre-adoptive capacity; and
   (b) Filing an application for initial registration as a family child care provider.

**INTENT:** Under Maryland law, OCC’s primary mission is to protect the health, safety, and well-being of each child in care. For this reason, OCC may disapprove a registration application if any part of the application has been falsified or if OCC has substantial reason to believe that the Provider, a condition in the home, or a person connected with the home may present a risk of harm to any child in care. Except under certain circumstances, a treatment foster parent may not be approved as a family child care provider.
Notes: Reasons for denial of an application for registration are, but not limited to, the following:

- **Reporting false Information:** This includes falsification of any required documentation. As a basis for denial, this is generally used in combination with another basis, such as an unreported criminal history, a history of licensing violations, or a child abuse history.

- **Previous regulatory history:** A license or certificate for foster care, domiciliary care, or any other type of care has been revoked or suspended, and the compliance history as a caregiver shows an inability to provide for the health or safety of children.

- **Refusal to comply:** Examples include refusal to complete a required orientation session, refusal to submit required application documents, refusal to allow an inspection of the home to take place, refusal to apply for criminal background checks, or refusal to abide by the requirements of a compliance agreement.

- **Denial or revocation of a child care license or registration:** Generally, if the revocation resulted from chronic overcapacity, serious lack of supervision, neglect or abuse, the Regional Office will not approve another registration.

- **Physical or mental health issues:** The medical evaluation indicates that the applicant is physically or mentally incapable of providing child care. Or observation of and/or interviews with the applicant demonstrate that the applicant is physically or mentally incapable of providing appropriate care or supervision (e.g., applicant has difficulty moving around, is unable to lift small children, or admits to chronic intoxication or severe emotional disturbance).

- **Criminal history:** If the criminal background check (State or FBI) completed for the applicant, a resident, or any person who has or will have child care responsibilities reveals a conviction, pending charge, probation before judgment, or not criminally responsible disposition for certain acts or attempted acts, which include but are not limited to the following:
  
  o A crime involving: A child;
  o Cruelty to animals;
  o Domestic violence; or
  o A weapons or firearms violation of federal or state laws;
  o A sex offense (including prostitution and indecent exposure);
  o A violent crime classified as a felony;
  o Abduction or kidnapping;
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- Abuse of a child or an adult;
- Confinement of an unattended child;
- Manufacturing, distributing, or dispensing a controlled dangerous substance;
- Perjury;
- Pornography;
- Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or
- Reckless endangerment.

- **Child abuse and neglect:** The Regional Office carefully evaluates each report of indicated abuse or neglect to determine:
  - The seriousness of the abuse or neglect;
  - Whether it was committed by the applicant or by someone else in the home;
  - Whether it indicates a potential risk to children in care; and
  - Whether the offender has undergone any rehabilitation.

The presence, by itself, of abuse or neglect charges does not automatically disqualify an applicant from being approved for a registration.

- **Dual Licensure:** Because of the degree of supervision that a child in treatment foster care typically needs, a caregiver who is a treatment foster care parent is not permitted to become registered as a family day care provider. However, an exception is made where each treatment foster care child in the home is there in a pre-adoptive capacity.

B. The office shall deny a certificate of registration to an applicant who has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

1. A crime involving:
   - A child;
   - Cruelty to animals;
   - Domestic violence; or
   - A weapons or firearms violation of federal or state laws;
2. A sex offense;
3. A violent crime classified as a felony;
4. Abduction or kidnapping;
5. Abuse of a child or an adult;
6. Confinement of an unattended child;
7. Manufacturing, distributing, or dispensing a controlled dangerous substance;
8. Perjury;
9. Pornography;
C. If the office denies an application, the office shall notify the applicant in writing of the denial stating:
   (1) The reason for denial;
   (2) The specific regulation with which the applicant has failed to comply that is the basis for the denial;
   (3) That the applicant is entitled to a fair hearing; and
   (4) The procedure to be used if the applicant wishes to request a hearing to appeal the decision of the office.

   **INTENT:** Under Maryland law, the Office must comply with due process requirements if it decides to deny an application. This means that the Office must inform the applicant why the decision to deny was made, of the applicant’s appeal rights, and how those rights may be exercised.

   **Note:** See 13A.15.14.03 Hearing Requests for the steps involved in appealing the denial of an application. Also, see the “Request for Hearing/Appeal” form (OCC 1281).

D. If an evaluation of criminal records or records of abuse and neglect of children or adults reveals that a substitute or an additional adult designated by the applicant may pose a risk to children in care, the office, instead of denying the registration certificate, may require the provider to designate another substitute or additional adult.

E. Denial Before Complete Application.
   (1) The office may deny an application for registration at any point during the application process if, following evaluation of information received to that point, the office determines that a basis for denial exists as set forth in §A or §B of this regulation.
   (2) If the office decides to deny the application before the application process is complete, the office shall send written notice of that decision to the applicant within 30 calendar days after making the decision.

   **INTENT:** To spare the applicant unnecessary additional expense or effort, if the office concludes during the application process that the application cannot be approved, the office will terminate the process and advise the applicant accordingly and in an expeditious manner.

.08 Voluntary Surrender of Registration.
A. A provider may voluntarily surrender a family child care registration at any time by notifying the office.
INTENT: A registration is not considered as surrendered until the Provider informs the Regional Office in writing that the registration is being surrendered. The Provider must use the “Voluntary Surrender of a Family Child Care Certificate of Registration” form.

Notes:

- The Provider may choose to voluntarily surrender a registration certificate rather than face a suspension or revocation proceeding. However, the circumstances under which the registration was surrendered will be noted in the Provider’s licensing record and will be taken into account when re-applying for a registration in the future.

- If the proceeding would involve an allegation of child abuse or neglect, Child Protective Services and the police must, by law, continue the abuse or neglect investigation and make findings independent of the licensing agency even if the registration has already been surrendered.

A. If a registration is surrendered under §A of this regulation:

1. The office shall note in the family child care provider's file that the registration has been voluntarily surrendered; and

   INTENT: Whenever a Provider's file is closed, the Regional Office must record the type of closure (i.e. withdrawal of application, expiration due to non-renewal, or voluntary surrender).

2. The provider shall return the surrendered certificate of registration to the office.

   INTENT: All registration certificates are the property of the State of Maryland and must be returned to the Regional Office immediately upon being surrendered.
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.01 Advertisement.
   A. An individual may not advertise a family child care service unless the individual holds a current certificate of registration issued by the office.

   **INTENT:** A certificate of registration from OCC is required before an applicant may legally advertise child care services. Advertising a family child care home without a current certificate is a violation of Maryland law and a civil citation may be issued.

   B. An advertisement of the family child care service by a provider shall:
      (1) Specify that the family child care home is registered; and
      (2) Include the registration number issued to the home by the office.

   **INTENT:** All advertisements must include the registration number assigned to the Provider.

.02 Admission to Care.
   A. The provider may not admit a child to the home for child care or allow a child to remain in care unless the provider has received:
      (1) An emergency form for the child as required in Regulation .04A(1) of this chapter;
      (2) Unless the child is temporarily admitted or retained pursuant to §D of this regulation:
         (a) A written report of a health assessment of the child on a form supplied or approved by the office; and
         (b) Evidence, on a form supplied or approved by the office, that the child has had immunizations appropriate for the child's age that meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene.

   **INTENT:** A child may not begin care until current and complete health, immunization, and emergency information for the child is received.

   **INSPECTION REPORT ITEM:** “Admission to Care“

   **COMPLIANCE CRITERIA:** On or before the first day that the child begins care, the Provider received the following items, each of which is complete and signed by the child’s parent or guardian and, if indicated, by a licensed health practitioner: “Emergency Form” (OCC 1214) “Health Inventory” form (OCC 1215) and “Immunization Certificate” (DHMH 896)

   **ASSESSMENT METHOD:** Review children’s files to determine if and when the required documentation was received.
Note: Federal law under the Americans with Disabilities Act (ADA) prohibits child care providers from denying admission to a child with a disability solely on the basis of that disability. For more information about how ADA requirements may apply to the Provider’s program, see “Child Care and the ADA.”

B. If a child is younger than 6 years old at the time of admission to the home, the provider may not allow the child to remain in care at the home if the parent does not, within 30 days after the child’s admission, submit evidence to the provider on a form supplied or approved by the office that the child has received an appropriate lead screening in accordance with applicable State or local requirements.

INTENT: To help decrease the damaging effects of lead poisoning in children, Maryland law requires each child under the age of 6 years to have an appropriate lead screening within 30 days after first entering a child care program.

INSPECTION REPORT ITEM: “Lead screening”

COMPLIANCE CRITERIA: Within 30 days after admitting a child younger than 6 years old, the Provider received a completed and signed “Health Inventory” form (OCC 1215) or equivalent form which contains all information as required on the Health Inventory.

ASSESSMENT METHOD: Review children’s files to determine if and when the Provider received the required documentation.

Notes: The child’s parent is responsible for making sure the child has received a lead screening. The child’s physician is responsible for ensuring that the child received the appropriate lead screening. The Provider’s only responsibility is to make sure the Provider receive documentation of the screening performed by the child’s physician within 30 days after the child first attends care.

C. A family child care provider who also provides treatment foster care in the home may not admit a child for treatment foster care in the home unless the child is being placed in the home in a pre-adoptive capacity.

INTENT: Because of the degree of supervision that a child in treatment foster care typically needs, a family child care provider who is also licensed as a treatment foster care parent is not permitted to admit a child for treatment foster care unless the child will be adopted by the provider.

D. Temporary Admission.

(1) A provider may temporarily admit or retain a child in care if the child’s parent or guardian is unable to provide documentation of immunization as required in §A(2)(b) of this regulation.
(2) For a child to be temporarily admitted or retained in care, the parent or guardian shall present evidence of the child’s appointment with a health care provider or local health department to:
   (a) Receive a medical evaluation to include, if applicable, a lead screening;
   (b) Receive a required immunization;
   (c) Acquire evidence of age-appropriate immunizations on a form approved by the office; or
   (d) Reconstruct a lost record.

(3) The date of appointment, set pursuant to §D(2) of this regulation, may not be later than 20 calendar days following the date the child was temporarily admitted or retained in care.

(4) A provider shall exclude from care a child who has been temporarily admitted or retained in care if the parent fails to provide the documentation required by §A(2) of this regulation within 3 business days after the date of the appointment made pursuant to §D(2) of this regulation.

.03 Program Records.

The provider or substitute shall:

A. Negotiate and maintain a written agreement with the child's parent that specifies:

   (1) The fees for and provision of care;
   (2) The provider's child discipline policy;
   (3) The presence at the home of any pet animals;
   (4) If applicable, the use of volunteers in the family child care program; and
   (5) If overnight care is to be provided to the child, the sleeping arrangements approved by the parent;

   **INTENT:** For each child admitted to care, the Provider must develop and keep on file a written service agreement with the parent that establishes what child care services the Provider offer and how much the Provider will charge the parent for those services.

   **INSPECTION REPORT ITEM:** “Program Records”

   **COMPLIANCE CRITERIA:** For each child in care, there is a written service agreement that:

   - Addresses the services provided and the cost of those services, and
   - Was signed and dated by the parent/guardian and the Provider on or before the date of the child’s admission to care.

   **ASSESSMENT METHOD:** Review children’s files to determine if written service agreements, signed and dated by both parties, are present. (Only one written agreement is required if parent/guardian have more than one child in care.)

   **Notes:** The following are some other topics the provider may wish to address in the service agreement:
• Child rest periods
• Bringing food, toys, supplies, and equipment from home
• Independent play outside the home by a child who are old enough to attend school
• Addressing disruptive child behavior and the Provider’s child guidance/discipline policies
• Policy on transporting children in care (including to and from school, if appropriate)
• Responsibility for making sure the child is properly dressed
• Policy on administering medication
• Whether or not smoking occurs in the home
• Exclusion from care for acute illness
• Closure due to holidays, vacation, bad weather
• Notification of service termination

B. For each child enrolled in care, maintain a written record of each day's attendance in care that is verified by the child's parent;

**INTENT:** The Provider must maintain a daily record of all children in attendance.

**INSPECTION REPORT ITEM:** “Program Records”

**COMPLIANCE CRITERIA:** There is a current and complete daily attendance record.

**ASSESSMENT METHOD:** Review Provider’s records to determine if a daily attendance record is kept.

**Note:** Parental verification of attendance was mandated for purposes related to programs with children participating in the Subsidy program. Providers must submit attendance verification with their invoices for payment. Providers may develop various processes for parent verification which are acceptable.

C. Maintain a record of each day on which a substitute provides care for more than 2 hours;

D. If applicable, maintain a record of each volunteer in the family child care program that includes:
   (1) The date on which the volunteer received the child health and safety orientation required in COMAR 13A.15.06.05A(2); and
   (2) If the volunteer is present at the home more than once per week:
       (a) A brief statement of the volunteer's duties; and
       (b) A medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer's duties;
E. Document that, on or before the date of a child's admission to care, the child's parent was given, or was advised how to obtain information that is supplied by the office concerning:
   (1) Consumer education on child care; and
   (2) How to file a complaint with the office against a child care provider.

   **INTENT:** Parents need information about child care and how to file a complaint against a child care provider. The “Guide to Regulated Child Care” contain that information and must be made available and accessible for parents to reference. The provider may display the guide for reference purposes, give a copy of the guide to the parent, or tell the parent how to locate it on the OCC website.

   **INSPECTION REPORT ITEM:** “Program Records”

   **COMPLIANCE CRITERIA:** A copy of the guide is displayed where it can be seen and used for reference by parents, or the Provider has documented that the guide was given to the parent or that the parent was told how to locate the guide on the OCC website. Documentation may be in any form convenient to the Provider.

   **ASSESSMENT METHOD:** Observe to identify if and where a display copy of the guide is available for parent reference, or review documentation that the guide was given to the parent, or that the parent was told how to locate the guide on the OCC website.

F. Record the date and time of each fire evacuation drill and emergency and disaster drill required by this subtitle; and

G. Maintain each document and record required by this regulation for at least 2 years after its creation.

.04 Child Records.

A. The provider shall:
   (1) Maintain emergency information for each child on a form supplied or approved by the office;

   **INTENT:** For each child, the Provider must know whom to contact in an emergency involving the child.

   **INSPECTION REPORT ITEM:** “Emergency Forms”

   **COMPLIANCE CRITERIA:** The Provider have a completed emergency information form on file for each enrolled child. The form is an OCC 1214 “Emergency Form or an equivalent document that has been approved by the Office for use.
ASSESSMENT METHOD: Observation that a completed form is present for each child.

(2) Keep the emergency forms for the children who currently are in the provider's care in a readily accessible location, including taking the forms when taking the children away from the home;

INTENT: The Provider must be able to use the information on the emergency forms in the event of an emergency. All emergency forms must always be readily available for immediate use in case of a child-related emergency.

INSPECTION REPORT ITEM: “Emergency Forms”

COMPLIANCE CRITERIA:

- At all times while the children are at the Provider’s home, all emergency forms are in a location that is within or immediately accessible to the approved child care area.
- The emergency forms must be located so that they are accessible to the Provider’s substitute and additional adult, if applicable, as well as to the Provider.
- For each child participating in an off-site activity, the child’s emergency form is brought along on the activity.

ASSESSMENT METHOD:

- On-site - Observation of where the forms are located in relation to the child care area.
- Off-site - Observation that the forms are brought along, or discussion with the Provider to determine if and how the forms are taken to an off-site activity.

(3) Arrange to have the form for each child updated as needed, but at least annually, and signed and dated by the parent.

INTENT: All information on the emergency form must be current so that the Provider can contact the child’s parent, authorized adult, or physician.

INSPECTION REPORT ITEM: “Emergency Forms”

COMPLIANCE CRITERIA: The date of the parent’s signature or initials on the emergency form is no more than 12 months prior to the previous date.

ASSESSMENT METHOD: Observation of each emergency form to determine date of last parent update.
A-1. Before the provider or substitute permits a child to:

1. Swim or wade, the provider shall obtain written approval from the child's parent on a form supplied or approved by the office;
2. Travel to or from school or a school transportation site without adult supervision, the child's parent and the provider shall agree in writing that the child can travel safely without adult supervision;
3. Be transported in a vehicle by the provider or substitute, the provider shall obtain written permission from the child's parent to transport the child;
4. Participate in an activity out of the home that is supervised by the provider or substitute, the provider shall obtain written approval from the child's parent on a form supplied or approved by the office;
5. Participate in a supervised activity out of the home without the provider or substitute, the provider shall obtain written permission from the child's parent for the child's participation; or
6. Participate in a service or activity conducted on the premises of the family child care home by an independent contractor, the provider shall obtain from the child's parent written permission for the child's participation.

**INTENT:** Parents/Guardians must always know when their child participates in activities away from the Provider's home and they must approve the child's participation.

**INSPECTION REPORT ITEM:** “Child Records”

**COMPLIANCE CRITERIA:** The Provider has written parental permission for each child who participated in an off-site activity that was signed and dated prior to the activity.

**ASSESSMENT METHOD:** Review child records to determine if written consent forms, signed and dated by the parents/guardian, are present.

**Note:** For sample permission slips see forms “Permission Slip – Offsite Activities” and “Permission Slip – Swimming/Wading Activities”

B. During the period of a child's enrollment and for 2 years after the child's disenrollment, a provider shall maintain a file for each child that includes records of:

1. The name, current address, and home and work telephone numbers of the parent;
2. The child's health assessment, immunizations, and allergies, if any, to include:
   a. If the child is younger than 6 years old, evidence that the child has received an appropriate lead screening as required by State or local law; and
(b) If the child is enrolled in school, parental permission for the school to release the child's health information to the provider;

(3) Acute illnesses that required excluding the child from care under COMAR 13A.15.11.02B;

(4) An injury or accident that is required by Regulation .05B of this chapter to be reported;

(5) Child medication records as required by COMAR 13A.15.11.04; and

(6) Written information concerning the child's individual needs that is supplied by the child's parent at or before the child's admission to care and is:
   (a) Used by the provider to meet the child's individual care needs; and
   (b) Reviewed by the provider and the parent at least every 12 months after the child's admission to care.

**INTENT:** The Provider must maintain a written file for each child that contains items noted in (1) – (6) of this regulation.

**INSPECTION REPORT ITEM:** “Child Records”

**COMPLIANCE CRITERIA:**

- For each child, the Provider has a file that contains the following completed items:
  - Emergency Form (OCC 1214)
  - Health Inventory Form (OCC 1215) with Blood Lead Test Certificate (DHMH Form 4620) Children born on or after January 1, 2015 must have blood lead test at age 12 months and again at age 24 months.
  - Medication Administration Form (OCC 1216) and OCC 1216-A Seizure Medication Administration Authorization or 1216-B Medication Incident Reporting Form, if applicable.
  - Immunization Certificate form (DHMH 896)
- For each child, the file also contains the following:
  - If applicable, documentation of each injury or accident involving the child. (see Accident/Injury Record)
  - Documentation that the Provider and the child’s parent/guardian have discussed particular needs the child may have, and the discussion occurred on or before the first day of care and within every 12 months that the child remained in care.
    **Note:** This documentation is found on the Emergency Form (OCC 1214) and additional information is completed by the parent/guardian on the Health Inventory Form (OCC 1215)

**ASSESSMENT METHOD:** Review each child’s file for appropriate documentation.
C. A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly from another registered family child care home, a licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §B(2) of this regulation.

.05 Notifications.
The provider or substitute shall:

A. Within 24 hours of its occurrence, notify the office of:
   (1) The death of a child, if the child died:
      (a) While in the care of the provider or substitute; or
      (b) Of a contagious disease; and
   (2) Any injury to a child that occurs while the child is in the care of the provider or substitute that results in:
      (a) The child being treated by a medical professional;
      (b) The child being admitted to a hospital; or
      (c) The death of the child;

   **INTENT:** The Regional Office must be notified of a child’s serious injury or illness, or death while in care, within one working day of its occurrence.

   **INSPECTION REPORT ITEM:** “Notifications”

   **COMPLIANCE CRITERIA:** Each incident involving injury to a child that needs professional medical attention, or death from an injury while in care, or death due to a contagious disease is reported to the Regional Office within 24 hours.

   **ASSESSMENT METHOD:** Comparison of serious incident report(s) (see Reportable Child Incident OCC Form 300) received from the Provider with reports/entries the Provider made into children’s records regarding the date, time, and nature of each serious incident.

B. If a child has an injury or accident while in attendance:
   (1) Report immediately to the child’s parent any serious injury or accident; and
   (2) Report any nonserious injury or accident to the child’s parent on the same day it occurs;

   **INTENT:** The Provider must notify parents of any injuries or accidents involving their children so that they can seek proper medical attention as necessary. The Provider must also maintain a record of each child injury and accident to help parents in providing appropriate details to the child’s physician and to provide information to the Provider’s liability insurance carrier in case the parents file a liability claim.
INSPECTION REPORT ITEM: “Notifications”

COMPLIANCE CRITERIA:
- The provider notifies the parent:
  - Immediately if the injury or accident is serious, or
  - By the end of the same day if the injury or accident is not serious.
- Each injury or accident involving a child is recorded in the child’s file.

ASSESSMENT METHOD: Review of children’s files to determine whether there is documentation of if and when parental notification occurred. (see Accident/Injury Record)

C. Notify the office immediately of any change that might affect the status of the registration, such as:
(1) A change in residents, operation, telephone number, or the provider's residence;
(2) A pending criminal charge against:
   (a) An individual who has responsibilities for supervising children in care; or
   (b) A resident in the home; or
(3) Any other situation involving the home that may present a risk to the health, safety, or welfare of children in care there, including, but not limited to, a report of domestic violence or the issuance of a protective order involving the provider or a resident in the home;

INTENT: A registration is approved on the basis of a specific set of circumstances pertinent to the Provider and the Provider’s home. The Provider must notify the Regional Office promptly if any of those circumstances changes materially or in a way that might present a risk to any child in the Provider’s care.

INSPECTION REPORT ITEM: “Notification of Changes”

COMPLIANCE CRITERIA: Each change that may affect the operation of the Provider’s program or present a risk to children is reported promptly to the Regional Office.

ASSESSMENT METHOD: Observation to determine if there has been any change that has not been reported.

Notes: If the Provider change residence during the period of registration, the registration becomes invalid. The Provider must notify the Regional Office in advance of any change in residence. The Regional Office will work with the Provider to expedite the processing of the “Resumption of Service” application. However, the Provider will not be issued a new registration until there has been a health inspection (if the Provider have private water and sewer), a fire inspection, and a home inspection of the Provider’s new residence by the Office.
Requirements for applying for a Resumption of Service due to change of address are set forth at Regulation 13A.15.02.05.

D. Within 5 working days after an existing resident becomes 18 years old, or after there is a new resident in the home who is 18 years old or older:
   (1) Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children and adults for information about the resident; and
   (2) Ensure that the resident applies for a federal and State criminal background check; and

   **ASSESSMENT METHOD:** Review of documentation received at the Regional Office.

E. Within 15 working days after notifying the office of a new resident, submit to the office:
   (1) A medical report on the resident, on a form supplied or approved by the office, that is based on a medical evaluation completed within the previous 12 months; or
   (2) Evidence that a medical evaluation of the resident has been scheduled; and

   **INTENT:** (D and E of this regulation) For each resident, the Provider must submit timely documentation to the Regional Office showing that the resident does not present a potential health or safety risk to children in care.

   **INSPECTION REPORT ITEM:** “Notification of Changes”

   **COMPLIANCE CRITERIA:** Within 15 days after notifying the Regional Office of a new resident, the Provider submitted the following items:
   - A completed “Medical Report for Family Child Care” form (OCC 1258) for the resident, or documentation that a medical evaluation has been scheduled, and
   - If the new resident is 18 years old or older, a completed:
     - “Release of Information” form (OCC 1260), and
     - Acknowledgement of application for a State and federal criminal background check.

   **ASSESSMENT METHOD:** A review of individual’s file for evidence of required documents.

F. When the provider plans a temporary absence of more than 2 hours, notify the parents of the children in care in advance that a substitute will be caring for the children during the provider's absence.
G. Within 10 business days of receiving notice of a contaminated drinking water supply, send a written notice of the drinking water contamination to the parent or legal guardian of each child enrolled that:
   (1) Identifies the contaminants and their levels; and
   (2) Describes how the provider will furnish uncontaminated drinking water for children in care until the original water supply is determined by the appropriate authority to be safe for consumption.

.06 Variances.

A. The office may not:
   (1) Waive a regulation; or
   (2) Grant a variance that diminishes safeguards to a child's health, safety, or well-being.

**INTENT:** Under Maryland law, OCC has no authority to grant the Provider an exemption from any regulation. All regulations under COMAR 13A.15 exist primarily to protect the health, safety, and welfare of each child in care. Therefore, OCC will only grant a variance that would not diminish that protection.

B. The office may grant a variance:
   (1) If the provider presents clear and convincing evidence that a regulation is met by an alternative that complies with the intent of the regulation for which the variance is sought; and
   (2) For a limited period of time as specified by the office or for as long as the certificate remains in effect and the provider continues to comply with the terms of the variance.

**INTENT:** A variance is an acceptable way of meeting the intent of a regulation without meeting the regulation’s literal requirements. If the Provider cannot reasonably meet a regulation’s literal requirements, the Provider may request a variance from the Regional Office. In making the Provider’s request, the Provider must propose an alternative and demonstrate how the alternative will fully satisfy the regulation’s intent.

**INSPECTION REPORT ITEM:** “Variances”

**COMPLIANCE CRITERIA:** If applicable, the Provider is in compliance with terms of the variance.

**ASSESSMENT METHOD:** If applicable, a review of the terms of the variance.

**Notes:** To request a variance, the Provider must submit a completed Variance Request form (OCC 1213), along with any relevant supporting documentation, to the Regional Office.
If the variance is granted, it has the same force and effect as the regulation, and the Provider must comply fully with all of its terms and conditions.

Before inspecting the Provider’s home, the Provider’s Licensing Specialist will review the Provider’s file to see if a variance is in effect and, if so, review the nature and duration. If a variance is in effect, the Licensing Specialist will determine during the inspection if the Provider and the home comply with the terms of the variance.

If the Provider is not in compliance with the terms of the variance, a noncompliance is cited, and Provider will be required to correct it within a specific timeframe.

C. **Within 30 calendar days of receiving a completed request for a variance, the office shall notify the provider that the variance has been granted or denied.**

**INTENT:** The Provider is responsible for submitting all information and documentation needed by the Regional Office to reach a decision on the variance request. Until the Regional Office has received all relevant information, the variance request is not complete. Once the request is complete, the Regional Office is responsible for making a decision about the request and informing the Provider of the decision in an expeditious manner.

**Note:** The Regional Manager will ensure that the decision is recorded on the Variance Request form and sent to the Provider.

D. **If a variance request is denied by a regional office of the Agency:**

1. The provider may appeal the denial to the Agency's central office; and
2. The Agency's central office has the final determination of whether or not a variance is granted.

**INTENT:** If the Provider believes that an adverse decision by the Regional Office was unfair or in error, the Provider may appeal the decision to the OCC Chief of the Licensing Branch. If the Provider is not satisfied with the Chief’s decision, the Provider may appeal further to the OCC Director. Appeals to the Chief of Licensing and the OCC Director may be made verbally or in writing.

**Notes:** If the Provider wants to appeal a variance denial made by the Regional Manager, the Regional Manager must:

- Give the Provider the name and telephone number of the Chief of Licensing, and
- Forward to the Chief of Licensing a copy of the variance request and all pertinent supporting documentation, with a written explanation of the basis for the Manager’s denial of the request.
Family Child Care Licensing Manual
(November 2016)

For use with

COMAR 13A.15 - Family Child Care
(As amended effective 7/20/15)

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01. Hours of Care.
   A. The provider may not permit a child to remain in care for more than 14 hours in any 24-hour period on a regular basis without prior approval from the office.

   **INTENT:** The intent of this regulation is to permit the Provider to care for, but not assume primary responsibilities for, the child on a regular basis. It is also to prevent “provider burn-out.”

   **INSPECTION REPORT ITEM:** “Hours of Care”

   **COMPLIANCE CRITERIA:** Child attendance records show that no child has spent more than 14 hours in care on more than an occasional basis without prior Regional Office approval.

   **ASSESSMENT METHOD:** Review of the Provider’s attendance records.

   **Notes:** Upon written request from the Provider, and on a case-by-case basis, the Regional Manager/designee may approve regular care of a child for more than 14 hours per 24-hour period. The Provider must submit a separate request for each child affected. In deciding whether to approve the request, the Regional Manager/designee will, at a minimum, take the following factors into account:

   - The reason for the Provider’s request;
   - The circumstances under which the additional hours of care will be provided; and
   - The Provider’s compliance history.

   B. A provider may not offer overnight care without prior written approval from the office.

   C. A provider who wishes to provide overnight care shall:
      (1) Submit to the office a written plan of operation that includes:
          (a) The number and ages of children to be served;
          (b) A meal and snack schedule;
          (c) The name of the overnight care substitute, if different from the daytime care substitute;
          (d) A child supervision plan;
          (e) A bedtime routine; and
          (f) An evacuation plan for each room where a child in care will sleep; and
      (2) Obtain the written approval of each child's parent for the child's sleeping arrangements.

02. Age Group Enrollment.
   A provider may enroll a child for care at the home only if the child's age group is approved for care, as indicated on the provider's current certificate of registration.

   **INSPECTION REPORT ITEM:** “Age Group Enrollment”
03. Child Capacity.

A. The number of children present in care at any one time may not exceed the child capacity number stated on the certificate of registration.

**INTENT:** Maryland Law sets the maximum number of children a family day care provider may care for, but not all providers or homes can be licensed for the maximum number. The decision to issue a registration for less than the maximum is based on considerations for safety of children in care. Therefore, having more than this number of children present in care at any given time represents a potential risk to the children and is prohibited.

**INSPECTION REPORT ITEM:** “Child Capacity”

**COMPLIANCE CRITERIA:** Children in attendance does not exceed approved capacity.

**ASSESSMENT METHOD:** Children in care are counted.

**Notes:** Capacity decisions are made at the Regional Office as part of the process of issuing registration certificates. In making each capacity decision, the following steps are taken:

- First, consideration is given to any capacity limitations that might be imposed by applicable fire, environmental health, and zoning requirements.

- Second, the Provider’s home is inspected to assess its suitability for the number of children requested. Particular consideration is given to:
  
  - The number and ages of the Provider’s own children.
  - Other children living in the Provider’s home, such as relatives' children or foster children, as well as children who the Provider regularly care for, whether for compensation or not.
  - The adequacy of indoor and outdoor activity space. Indoors, there must be enough floor area to allow the number and ages of the children authorized for care to engage in active play without overcrowding or risk of injury. Outdoors, there must be ample, accessible space that is free from hazards.
  - The amount and appropriateness of activity equipment and materials, and of napping and eating space and equipment.
  - Whether the Provider devotes time and energy to caring for other persons such as infirm or elderly relatives who either live in the home or come into the home on a regular basis.
  - Other factors that may affect the health, safety, or welfare of children in care at the home.

- Based on an assessment of the above items, the Licensing Specialist makes a capacity recommendation to the Licensing Supervisor or Regional Manager. The Supervisor or Manager is responsible for making the capacity decision. Before
reaching that decision, the Supervisor or Manager may need to obtain additional information or conduct a further inspection of the Provider’s home in order to determine the appropriateness of the Specialist’s recommendation. Once a capacity decision has been made, the Supervisor or Manager is responsible for ensuring that the Provider is promptly notified about the decision.

B. Care may not be provided at any one time to more than two children younger than 2 years old unless approved by the office.

**INTENT:** Children under the age of 2 are especially vulnerable. They require constant attention and close supervision. To provide adequate supervision and ensure child safety in the event of an emergency, the Provider may only care for two children under the age of 2 years. To care for more than two children under the age of 2, an additional adult would need to be approved by the Office. (See “C” and “D” below)

**INSPECTION REPORT ITEM:** “Child Capacity”

**COMPLIANCE CRITERIA:**
- The overall number of children present in care at the same time does not exceed the total capacity number stated on the registration certificate; and
- If the Provider is approved to care for children younger than 2 years old:
  - The number of children younger than 2 does not exceed the limit set by the Office, and
  - One approved adult is present for two children younger than 2, and a second approved adult is present for the third or fourth child younger than 2.

**ASSESSMENT METHOD:** Observation to determine if the number of children present, by age, is within the number stated on the registration certificate. As necessary, verification of children’s ages.

**Notes:**
- The “provider’s own children” includes any child who resides in the Provider’s home, regardless of whether the child is related to the Provider.
- A resident child under the age of 6 years is to be counted toward the maximum authorized capacity regardless of where the child may actually be at any given time.
- If the number of children enrolled in the Provider’s program is greater than the Provider’s approved maximum capacity, the Provider must be careful to schedule their attendance so that the number of children actually present in the Provider’s home at any one time does not exceed the Provider’s maximum capacity.

C. Whenever more than two children younger than 2 years old are present in care, an additional adult shall be present who has met the applicable requirements of COMAR 13A.15.06.04.
INTENT: Very young children have particular developmental needs that an additional adult must be prepared to meet. For this reason, the Provider’s additional adult must meet certain requirements.

INSPECTION REPORT ITEM: “Child Capacity”

COMPLIANCE CRITERIA: An approved “Additional Adult” is present if there are 3 or 4 children under age 2 years in care.

ASSESSMENT METHOD: Review of the Provider’s licensing file to determine if the additional adult has met all applicable requirements.

Notes:

- The Provider must submit the following information to the Regional Office when seeking approval for an “Additional Adult”:
  - Medical Report for Family Child Care (OCC 1258)
  - Release of Information (OCC 1260)
  - Additional Adult Application (OCC 1275)
- Each of the proposed “Additional Adult’s” substitutes must submit to the Regional Office a completed and signed Substitute Form (OCC 1229).
- If the Provider pays the “Additional Adult” (regardless of how much or how often) to help the Provider provide care, that person becomes the Provider’s employee. This means that the Provider becomes subject to certain State and/or federal requirements pertaining to employers, such as payroll taxes, workers’ compensation, liability insurance, etc. If the Provider is not familiar with these requirements, the Provider is encouraged to seek information about them from the Provider’s local library or Internet sites such as www.irs.gov, or to sign up for a class or workshop that addresses employer responsibilities.
- A paid “Additional Adult” must apply for a criminal background check.
- The Additional Adult must take the “Infant-Toddler Orientation” offered by the Office.

D. The maximum total capacity of a family child care home may not exceed eight children, of whom not more than four may be younger than 2 years old.

E. The office:
   (1) Shall count as a child in care a resident who is younger than 6 years old; and
   (2) May count as a child in care a child who is visiting the home if the child:
       (a) Is younger than 8 years old and unaccompanied by an adult; or
       (b) Cannot be sent home immediately.
**INTENT**: A child for whom the Provider must assume supervisory responsibility must be counted as a child in care.

04. Restriction of Operations.
   A. Upon determining that any of the following is unsuitable for the home, the office may restrict or reduce the provider's approved:
      (1) Hours of care;
      (2) Child care age groups; or
      (3) Child capacity.

   **INTENT**: For a given home, the Office may limit the children who may be present at one time to less than the maximum permitted capacity in order to ensure that safe, adequate, and appropriate child care and supervision can be provided.

   **Notes**: If the Provider home school the Provider’s own children, the Regional Office shall assess the potential impact of that activity on the care provided to children during the Provider’s approved hours of operation. Depending on the circumstances of the home schooling activity, the Regional Office may limit the Provider’s child care capacity to less than the permitted maximum. For details about home schooling in a family child care home, see resource document, “Home Instruction.”

   B. The office may base a restriction or reduction under §A of this regulation on any of the following factors:
      (1) Space available, indoors or outdoors;
      (2) Equipment available;
      (3) Number and ages of residents in the home;
      (4) Responsibility of the provider to care for another individual who may require special attention or care, including, but not limited to, an elderly resident or a child with a serious physical, emotional, or behavioral condition;
      (5) Applicable fire, zoning, health, environmental, or other codes;
      (6) Failure by a provider approved for a capacity of up to four children younger than 2 years old to meet the infant-toddler training requirement specified at COMAR 13A.15.06.02G; or
      (7) Other factors the office determines may cause a risk to a child's health, safety, or welfare.

   C. A provider may appeal a restriction or reduction pursuant to §A of this regulation by filing a request for hearing:
      (1) Not later than 20 calendar days after the notification of the office's action; or
      (2) In the case of an emergency reduction in capacity, within 72 hours of notification by the office of its decision to immediately reduce the number of children in care.

   **INTENT**: A decision by the Office to limit or reduce the capacity of the home affects the status of the registration. Therefore, the Provider may appeal that decision in accordance with established administrative hearing procedures.
Notes:

- If the Provider wish to appeal a capacity decision, submit a written request to the Regional Manager to review the decision.
- If the Provider is not satisfied with the outcome of the review by the Regional Manager, the Provider may file an appeal to have the decision reviewed by the Office of Administrative Hearings (OAH).

  - Complete a “Request for Hearing” form (OCC 1281) and submit it to the MSDE Office of the Attorney General. This office will forward it to OAH for scheduling of an appeal hearing.
  - The OAH appeal hearing will be conducted in accordance with Chapter 14 ("Administrative Hearings") under this subtitle.
Family Child Care Licensing Manual  
(November 2016)  
For use with  
COMAR 13A.15 - Family Child Care  
(As amended effective 7/20/15)  

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01. Suitability of the Home

The home shall:

A. Comply with all applicable State and local fire, zoning, health, safety, and environmental codes;
B. Be in good repair;
C. Be free of health or safety hazards, including infestation by insects and rodents;

**INTENT:** The Child Care Home must be safe for children and must comply with all applicable State and local codes.

**INSPECTION REPORT ITEM:** “Suitability of the Home”

**COMPLIANCE CRITERIA:**

- The fixtures in the home are in good repair, clean, free of hazards, and free of any infestation.
- All areas within the home (especially food preparation areas, storage areas, and bathrooms) are clean and free from insect and rodent infestation, such as:
  - Rodent infestation, indicated by signs of dropping, shiny slick runways, greasy rub-marks
  - Insect infestation (ants, bees, flies, roaches). Roach droppings appear as powdery black flecks.

**ASSESSMENT METHOD:**

- Observation of the entire exterior and interior of the child care home to assess the general physical condition of the home and fixtures, and determine if there are any obvious safety hazards.
- Observation for cleanliness of the home.
- Observation for signs of possible infestation by insects or rodents.
- Review of documentation submitted in reference to meeting applicable codes.

**Notes:** Items to be inspected outside and inside the home include, but are not limited to:

- Exterior walls in poor repair – peeling, flaking paint
- Broken windows
- Splintering, rotting, or deteriorating wood
- Broken or missing stairs or steps; loose or missing handrails
- Broken or improperly hung doors
Torn or missing screens, if windows and/or doors open for ventilation. [Note: If windows are needed to meet the requirement for adequate exchange of air, there must be screens on the windows.]

Protrusions from the building, such as air conditioners that are accessible to children, windows that swing out to open, window boxes, etc.

Unprotected crawl spaces and window wells

Toxic plants within children’s reach

Interior walls, floors, ceilings in poor repair (holes in walls, sagging ceilings, loose/frayed/taped carpet, missing floor tiles, etc.)

Water-damaged ceilings, walls, or floors

Exposed electrical wiring or missing outlet or switch plates

Loose or missing handrails on stairs

Wall or ceiling attachments (cabinets, light fixtures, shelves, etc.) in poor condition or broken

Note: For identification of toxic and non-toxic plants, see “Poisonous Plants”, “Poisonous Plants Field Guide”, and “Non-Poisonous Plants”.

D. Have operable and safe utility services for lighting, heating, and cooking;
E. Have hot and cold running water, with a hot water temperature that does not exceed 120° F;
F. Have a toilet in good working condition that is readily accessible to children in care;
G. Have an operable refrigerator and stove; and
H. Have an operable telephone.

INTENT: The home must be equipped with operable utilities, fixtures, and appliances to ensure proper sanitation, personal hygiene, food storage and preparation, heat and light. The home must have at least one operable land-line (hard-wired) telephone or wireless communication device (cell phone) that can be readily accessed for general and emergency use.

INSPECTION REPORT ITEM: “Suitability of the Home”

COMPLIANCE CRITERIA: All items and services listed above at D – H are in the home and in good working order.

ASSESSMENT METHOD: Observation to ensure that each item or service is present and working properly. If necessary, testing may be done to determine operability.

Notes: When assessing compliance with D – H above, verify the following:

- Hot water is hot, but not hot enough to burn a child. To prevent scalding, hot water should be no hotter than 120 degrees F. Cold water is cool enough to drink.
- Water flushed in toilet is forceful enough to empty the toilet bowl completely.
• The toilet seat is present, attached properly, and in good condition (not broken or cracked).
• The home has either a public sewage disposal system or a septic system that meets applicable codes (the Regional Office will refer any question about code requirements to the local authority).
• The refrigerator is maintained at no more than 45 degrees F., as indicated by the refrigerator thermometer reading. The freezer should be kept at no more than 0 degrees F.
• All stove burners turn on when the dial is set to the “on” position.
• The oven turns on when the dial is set to the “on” position.
• The home is free of natural gas smells.
• The lights work in all areas used for child care.
• The telephone is in working condition.
• The heating system is not surrounded by clutter or combustible materials.

02. Lead-Safe Environment

A. A provider may not use paint with lead content on any:
   (1) Exterior or interior surface of the home; or
   (2) Material or equipment used for child care purposes.

B. If the home is a residential rental property constructed before *1950, which is an affected property as defined in Environment Article, §6-801(b), Annotated Code of Maryland, the provider shall submit a copy of the current lead risk reduction or lead-free certificate.

C. If the home was constructed before 1978 and not certified lead-free under Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, the provider shall:
   (1) Ensure there is no chipping, peeling, flaking, chalking, or deteriorated paint on any surface of an interior or exterior area of the home that is used for child care;
   (2) If deterioration of a surface in an area used for child care is noted, or if renovation of the premises occurs that disturbs a painted surface, arrange to have a lead-dust test:
      (a) Conducted by an accredited visual inspector under COMAR 26.16.02.03B to meet the risk reduction standard, if the home is an affected property; or
      (b) Conducted in areas used for child care by an accredited risk assessor under COMAR 26.16.05.11, if the home is not an affected property; and
   (3) If a lead-dust test is required under §C(2) of this regulation, obtain:
      (a) A passing score on that test; and
      (b) Verification from the lead inspector performing the test that the requirements of §C(2) and (3) (a) of this regulation have been met.

D. In a home constructed before 1978 that is not certified lead-free under Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, when performing a renovation that disturbs the painted surface of an interior or exterior area used for child care, the provider shall ensure that the work is performed by an individual accredited to perform the lead paint abatement services using safe work practices as required by
Environment Article, Title 6, Subtitle 10, Annotated Code of Maryland, and corresponding regulations.

**INTENT of §§A, B, C, and D:** Paint with lead content may not be located in any area of the child care home, or on any material or equipment used for child care purposes.

- **If the home is a rental property** and was built or remodeled before **1950**, a Lead Risk Reduction or Lead-Free Certificate issued by the Maryland Department of the Environment (MDE) is required. *Note: Effective January 2015, this requirement is applicable to residential rental property built or remodeled before 1978.*

- **If the home was built or remodeled prior to 1978 and there is a deteriorated paint surface in the child care area, the paint must be tested for lead content.** The Provider must follow procedures established by the Maryland Department of the Environment (MDE) to remove or repair the paint in accordance with C(2) of this regulation.

**INSPECTION REPORT ITEM:** “Lead-Safe Environment”

**COMPLIANCE CRITERIA:**

- **In a pre-**1950 residential rental facility:
  - A Lead Risk Reduction or Lead-Free Certificate issued by the Maryland Department of the Environment (MDE) exists. *Note: Effective January 2015 this item is required for pre-1978 residential rental property.*

- **In a pre-1978 home that is not a rental property:**
  - The paint on all interior and exterior child care area surfaces is intact; and
  - The paint shows no evidence of deterioration.

- **In residential rental and non-residential rental property built in 1978 or after:**
  - The paint on all interior and exterior child care area surfaces is intact; and
  - The paint shows no evidence of deterioration.

**ASSESSMENT METHOD:**

- Review of documentation and/or interview Provider to determine when the facility was built or last remodeled.

- Observation of painted surfaces on the interior and exterior child care areas (e.g., walls and ceilings, window frames, doors, entryway porches, etc.) to assess the condition of the paint.
- If paint testing and/or removal or repair is required, review documentation from the MDE lead inspector performing the test to determine that the requirements of §§C(2) and (3)(a) of this regulation have been met.

**Note:**
- See "FAQs on Lead and Lead Poisoning," for important information about lead poisoning.

03. Cleanliness and Sanitation.

A. All areas of the home, including food preparation, service, and storage areas shall be maintained in a state of cleanliness so as not to endanger the children's health.

**INTENT:** The home must be kept clean in order to maintain a healthy environment.

**INSPECTION REPORT ITEM:** “Cleanliness and Sanitation”

**COMPLIANCE CRITERIA:** All surfaces and equipment clean:

- Floors, walls, ceilings, fixtures, and furnishings are free of dirt, grime, grease, and spillage.

- Rooms are free of accumulated clutter and trash.

- Food storage/preparation/service areas are free of grime, debris, and spillage.

**ASSESSMENT METHOD:** Observation of the home for cleanliness and absence of any condition that might pose a risk to child health.

**Notes:**
- The provider is expected to follow cleaning procedures and schedules set forth in OCC’s “General Sanitation Guidelines”.

- Routine cleaning of surfaces, materials, and equipment removes dirt or spills that can harbor bacteria; however, some surfaces and items must also be sanitized with a disinfectant because they are especially likely to become contaminated with high levels of bacteria and serve as vehicles for transmitting illness.

- Many commercial disinfectants contain additives such as perfume or dye and may leave a chemical residue. This could be harmful to children with asthma or allergies. For this reason, the Center for Disease Control (CDC) and the American Academy of Pediatrics (AAP) recommend using a solution of household bleach and water for general sanitizing purposes. A properly mixed bleach-and-water solution is non-toxic and evaporates rapidly without leaving a residue.
Whenever children are present, bleach solution (or any other approved disinfectant) should be applied by dipping, soaking, or wiping the item or surface with a cloth (but not a sponge, since sponges harbor bacteria and are hard to clean). Spraying is acceptable only when dipping or soaking is not feasible and wiping with a cloth is likely to spread the contamination – for example, when sanitizing diapering surfaces and toilets.

Whenever a disinfectant of any kind is used, there should always be adequate ventilation. This is especially important in confined or enclosed areas such as bathrooms. A child who is asthmatic or sensitive to the disinfectant should be kept away from the immediate area until it can dissipate completely. If this step is not sufficient, the provider should discuss with the child’s parent other alternatives for reasonably accommodating the child’s sensitivity.

If a product is registered with the Environmental Protection Agency’s (EPA’s) Division for Chemicals and Pesticides, OCC will accept the product only for general cleaning and disinfecting purposes; however, such a product is not acceptable for sanitizing and disinfecting diapering and food service areas. Check the product label to verify that there is an EPA registration number.

B. Paper towels, a trash receptacle, soap, and toilet paper shall be placed within reach of a child capable of using the toilet without assistance.

C. Trash, garbage, and wet or soiled diapers shall be disposed of in a clean and sanitary manner.

**INTENT:** All trash and other refuse must be discarded in a safe and sanitary manner to maintain a healthy environment.

**INSPECTION REPORT ITEM:** “Cleanliness and Sanitation”

**COMPLIANCE CRITERIA:**
- Trash is stored in trash baskets that are emptied as needed, but at least daily.
- Wet or soiled diapers are stored in a plastic container with a lid and liner that is located away from any area used for food storage/preparation/service.
- Outdoor storage of trash is in cans with tight-fitting lids.
- Areas around outdoor and indoor trash receptacles are clean and clear of trash or clutter.

D. After toileting and diapering, before food preparation and eating, after playing outdoors, after handling animals, and at other times when necessary to prevent the spread of disease, the provider or substitute shall:
1. Wash the provider's or substitute's hands thoroughly with soap and warm running water; and
2. Ensure that a child's hands are washed thoroughly, by the provider or by the child, with soap and warm running water.
INTENT: To prevent the spread of infection and illness, adults and children must wash their hands properly after touching potentially contaminated items or substances.

INSPECTION REPORT ITEM: “Cleanliness and Sanitation”

COMPLIANCE CRITERIA:
- Each program adult and each child, capable of self-washing, washes hands as required with soap and warm running water.
- Children who are not capable of self-washing have their hands washed as required with soap and warm running water by adults.
- The Provider always washes hand after a diaper change.
- To keep germs away from food, no one washes hands in a food service/preparation area.
- In each case, handwashing procedures approved by the Office must be followed. (see “Handwashing Procedures”)

ASSESSMENT METHOD: Observation of how and when hands are washed. If observation is not possible, discussion to determine how and when handwashing is done.

Note: To help prevent the spread of disease, it is recommended that the Provider wears single-use disposable gloves during diapering. The gloves must be thrown away immediately after diapering and hands washed in accordance with approved handwashing procedures.

E. To assist in preventing the spread of disease, the provider or substitute shall:
   (1) Promptly change a child's diaper, clothing, and bedding when soiled or wet;
   (2) Follow diapering procedures designed to prevent the transmission of disease, which are established and supplied by the office; and
   (3) Maintain the surface used for diapering in a clean and sanitary manner.

INTENT: Children’s health and sanitary needs must be met by changing soiled or wet items promptly and in a sanitary manner.

INSPECTION REPORT ITEM: “Cleanliness and Sanitation”

COMPLIANCE CRITERIA:
- Diapering activities are conducted according to procedures approved by the Office. (see “Diapering Procedures”)

Note: To help prevent the spread of disease, it is recommended that the Provider wears single-use disposable gloves during diapering. The gloves must be thrown away immediately after diapering and hands washed in accordance with approved handwashing procedures.
• The diapering surface is promptly cleaned and sanitized according to procedures approved by the Office. (see “General Sanitation Guidelines”)

**ASSESSMENT METHOD:** Observation of how and when diapers and soiled clothing are changed and the diapering surface is cleaned. If observation is not possible, discussion to determine how and when changes and cleaning are done.

**Notes:**

• Diapers may not be changed in a food service or preparation area.

• To minimize the potential for spread of infection, the Provider should consider designating a single area for use as a diapering station in the home. However, more than one area may be used as long as each area has a non-absorbent surface that can be easily cleaned and sanitized after each diapering.

**F. If used, portable toilets, also known as potty-chairs, shall be:**

1. Placed on a nonabsorbent surface or mat;
2. Located away from food preparation, food service, and eating areas; and
3. Cleaned and sanitized after each use in accordance with procedures established by the office.

**INTENT:** Potty-chairs are a major source of contamination. If potty-chairs are used in the Provider’s home, they must be cleaned immediately in a safe and sanitary manner after each use.

**INSPECTION REPORT ITEM:** “Cleanliness and Sanitation”

**COMPLIANCE CRITERIA:**

• Each potty-chair is placed on a non-absorbent surface or mat and is located away from a food storage, preparation, service, or eating area.

• Immediately after each use, the potty-chair is cleaned according to procedures approved by the Office. (see “General Sanitation Guidelines”)

**ASSESSMENT METHOD:** If potty-chairs are used:

• Observation to determine where they are placed, and

• Observation or discussion to determine how and when they are cleaned.
04. Rooms Used for Care.
   A. The provider may use an area of the home for child care only if it:
      (1) Has been approved for use by the office;

      **INTENT:** Areas that have not been approved by the Office do not have to meet licensing requirements, and therefore, may not be safe or appropriate for child care.

      **INSPECTION REPORT ITEM:** “Rooms Used For Care”

      **COMPLIANCE CRITERIA:** Child care takes place only in approved areas of the home.

      **ASSESSMENT METHOD:** Observation to determine that all children are utilizing only approved play and napping space.

      **Notes:**

      - During an initial registration inspection, the Licensing Specialist should observe all areas of the home (including areas that will not be used for child care) to determine whether any potential child health or safety risk conditions are present.

      - During a conversion or a routine unannounced inspection, the Licensing Specialist should observe only those areas that are approved for child care. If the registration certificate specifies any restrictions on the use of other areas of the home, the Licensing Specialist should review those restrictions with the Provider and make a note accordingly in the inspection report.

      - During a complaint inspection, the Licensing Specialist should likewise observe only the areas approved for child care unless the nature of the complaint (for example, an allegation of overcapacity, or an unreported resident, or violation of a non-access agreement) suggests that another area of the home may be involved. If that is the case, then the Licensing Specialist should also observe that area.

      - **During any inspection, if the Licensing Specialist hears sounds (for example, thumps, crying, children’s voices) coming from a part of the home not approved for child care, the Specialist should ask if there is anyone else present in the home and, if someone else is present, who that person is. If the person is not known to OCC as a resident of the home, the Specialist should observe the area where the person is located.**

      (2) Meets the requirements of all applicable fire codes;

      **INTENT:** If an area cannot meet fire codes, it cannot be considered safe for care.
(3) **Does not have a condition that may pose a risk to the health, safety, or welfare of the children in care;**

**INTENT:** Care may be provided only in areas and under conditions that are safe for children.

**INSPECTION REPORT ITEM:** “Rooms Used for Care”

**COMPLIANCE CRITERIA:** Each approved area is free of any condition that could harm a child. Potentially harmful conditions include the presence of certain pets or other animals, pet-related contamination of food areas, and the lack of proper pet sanitation.

**ASSESSMENT METHOD:** Observation of all child care areas to determine if any potentially harmful condition is present.

**Notes:**
- The Provider must not allow any child to have access to a reptile or a ferret.
- Birds may not be kept in, or allowed access to, child care areas.
- If a pet or other animal is kept at the Provider’s home, the Provider must:
  - Notify the parent of each child about each animal’s presence;
  - Restrict the animal from food preparation surfaces and from storage areas containing food, plates, and eating utensils (NOTE: birds must be completely restricted from kitchen and dining areas);
  - Ensure that children wash their hands after handling the animal;
  - Ensure that the animal’s cage or litter box is kept clean and located away from food storage/service and eating areas;
  - Ensure that animal waste is inaccessible to the children;
  - Ensure that the animal has been properly immunized, if required by State or local law; and
  - Immediately apply first aid or, if necessary, seek medical treatment for any injury the animal causes to a child.
- Additional guidance on maintaining pets and other animals in a child care environment is found in the resource document, “Animals in Child Care Facilities”.

(4) **Has windows or artificial lighting that provides sufficient illumination for a child's activities;**

**INTENT:** Inadequate lighting is a safety risk.
**INSPECTION REPORT ITEM:** “Rooms Used for Care”

**COMPLIANCE CRITERIA:** There is enough natural or artificial lighting for children to move about and engage in activities safely and easily.

**ASSESSMENT METHOD:** Observation to determine how well children can see what they are doing.

(5) Has natural or mechanical ventilation to provide a healthy and comfortable environment;

**INTENT:** Stuffy or uncirculated air creates discomfort and promotes the spread of illness.

**INSPECTION REPORT ITEM:** “Rooms Used for Care”

**COMPLIANCE CRITERIA:** The air in each child care area is not stuffy, rank, or contaminated with an odd or unusual odor. Children appear to be breathing normally and comfortably.

**ASSESSMENT METHOD:** Observation to determine the children’s level of comfort.

(6) Has sufficient floor area for the number and ages of the children approved for care in the home to allow the children to engage in active play without overcrowding; and

**INTENT:** Inadequate floor space creates overcrowding, which is not safe.

**INSPECTION REPORT ITEM:** “Rooms Used for Care”

**COMPLIANCE CRITERIA:** Each child is able to move about and participate in activities easily and safely.

**ASSESSMENT METHOD:** Observation of child movement and activity.

**Notes:** There must be enough available floor space so that:

- All children can move and play without constantly bumping into furniture or each other, or tripping over toys and materials on the floor; and
- Children under the age of 2 years can move and play on the floor without being tripped over by older children.

(7) Has a room temperature of not less than 65° F.
INTENT: To help ensure the health and comfort of children, a minimum air temperature must be maintained.

INSPECTION REPORT ITEM: “Rooms Used for Care”

COMPLIANCE CRITERIA: No part of any approved room is less than 65 degrees.

ASSESSMENT METHOD: The room temperature should feel comfortable. If a room feels cool, or a child appears to be cold, the Licensing Specialist should take an air temperature reading at floor level.

8. In rooms where a child younger than 5 years old is in care, the provider shall arrange the home so that:

(1) All electrical sockets within reach of a child are plugged or capped;

INTENT: Younger children are not aware of the hazards of electrical outlets and may try to insert objects into them, causing electrocution.

INSPECTION REPORT ITEM: “Rooms Used for Care”

COMPLIANCE CRITERIA: Each socket within reach of any child under 5 years old is suitably capped or covered.

ASSESSMENT METHOD: Observation of each socket in the approved child care area.

(2) Suitable protective barriers are placed at locations accessible and potentially hazardous to children; and

INTENT: Younger children must be kept from certain locations that are potentially harmful to them.

INSPECTION REPORT ITEM: “Rooms Used for Care”

COMPLIANCE CRITERIA: An appropriate barrier in proper working condition is in place at each potentially hazardous location within the child care area. Hazardous locations include, but are not limited to, stairs, balconies, and fireplaces.

ASSESSMENT METHOD: Observation to determine if barriers are in place as required.

(3) Child-proof devices are placed on cabinets and drawers that contain items potentially hazardous to children.

INTENT: Younger children must be kept from certain items and materials that are potentially harmful to them.
INSPECTION REPORT ITEM: “Rooms Used for Care”

COMPLIANCE CRITERIA: A suitable child-proofing device in proper working condition is placed on each cabinet or drawer in the child care area that contains potentially hazardous items or substances.

ASSESSMENT METHOD: Observation to determine if child-proof devices are in place as required.

C. Window Coverings. A window covering installed:
   (1) Before October 1, 2010, shall not have unsecured cords, beads, ropes, or strings that are accessible to a child in care; or
   (2) On or after October 1, 2010, shall be cordless.

INTENT: To eliminate the choking hazard presented by unsecured cords, beads, ropes, or strings that may be attached to window coverings, such hazardous items must be secured, if present in the child care home.

INSPECTION REPORT ITEM: “Rooms Used for Care”

COMPLIANCE CRITERIA:

- There are no unsecured cords, beads, ropes, or strings attached to window coverings in the child care home.

- All window coverings installed after October 1, 2010 are cordless.

ASSESSMENT METHOD:

- Observe all window coverings to determine if any cords, beads, ropes, or strings attached to window coverings are secured.

- Observe all window coverings installed after October 1, 2010 to determine if they are cordless.

Note: For examples of securing window coverings see “Window Covering Guidelines”

D. In a home approved to provide care for infants or toddlers, the provider shall designate space for mothers to breastfeed or express breast milk that:
   (1) Is not located in a bathroom;
   (2) Has access to an electrical outlet;
   (3) Has appropriate seating;
   (4) Has access to running water; and
   (5) Accommodates a mother’s need for privacy.
05. Outdoor Activity Area.

A. There shall be ample, accessible space for outdoor activity that is free from conditions that may be dangerous to the health or safety of children in care.

**INTENT:** Children must have an outdoor play area they can use each day that is accessible and large enough to accommodate vigorous play by all children in attendance. If the outdoor play area is not located on the property, the off-site location must be reached easily and without placing any child in danger. The approved outdoor play area must be close enough to the child care home that vehicle transportation is not required.

**INSPECTION REPORT ITEM:** “Outdoor Activity Area”

**COMPLIANCE CRITERIA:** There is an outdoor playground that is:

- Available for daily use by children in care;

- Safely and easily accessible to the children without using vehicle transportation; and,

- Large enough to accommodate the play activities of all children in attendance at one time or in shifts.

- Within the outdoor activity area:

  - There are no potentially dangerous objects or conditions such as, but not limited to:
    - Broken glass or other debris,
    - Exposed nails, screws, or bolts,
    - Sticker bushes or overgrown weeds,
    - Lawn mowers and gardening tools,
    - Motorcycles, cars, and other vehicles,
    - Heating/air conditioning units
    - Pool filters
    - Stairwells or window-wells,
    - Holes in the ground, and
    - Herbicides and other chemical lawn treatments considered hazardous to children by the Maryland Department of the Environment;

  - There are no pets or animals that may pose a risk to the children, and no pet-waste is present; and

**ASSESSMENT METHOD:** Observe the outdoor activity area to assess its accessibility and suitability.
**Notes:**

- “Accessible” does not mean that the outdoor playground must necessarily be located on property. “Accessible” means the outdoor playground needs to be adjacent to, or safely accessible to the facility. Examples of situations that satisfy this accessibility requirement include, but are not limited to, a playground maintained by a school that is next door to the facility and a municipal playground that is located at a short distance from the facility but can easily be reached without risk to any child in care.

- Pets and Animals - If the Provider keep a pet or other animal at the Provider’s home, the Provider must ensure that it does not present any health or safety risk to children using the outdoor activity area. For guidance on keeping pets and animals in a child care environment, see resource guide, “Animals in Child Care Facilities”.

B. If required by the office, the outdoor activity area shall be enclosed to protect children in care from accessible hazards such as a heavily trafficked area, a body of water, or environmental hazards.

**INTENT:** The Provider must ensure that the children are kept safe from any potential hazard near the outdoor activity area.

**INSPECTION REPORT ITEM:** “Outdoor Safety”

**COMPLIANCE CRITERIA:** The outdoor activity area is:

- Suitably enclosed, or
- Located where there are no nearby potential hazards (such as, but not limited to, heavy vehicle traffic, train tracks, construction work, unfenced bodies of water, culverts or ditches, cliffs, or waste disposal sites).

**ASSESSMENT METHOD:**

- Observation of the activity area and its surroundings.

- Any potentially dangerous object or condition that is present is made inaccessible to children by means of a suitable fence, enclosure, or other barrier.

**Note:** For guidance on barrier requirements, see resource guide, “Barriers to Protect Children from Life-Threatening Safety Hazards”.

06. Rest Furnishings.

A. The home shall have clean linen and adequate furnishings for rest periods that are comfortable, durable, safe, and appropriate for the ages of the children in care.

B. Each child shall have an individual place to rest that is not used by any other child or resident unless the linens are changed between users.
C. The provider shall furnish for each child approved for care in the home who is:
   (1) Younger than 12 months old, a crib, portable crib, or playpen; or
   (2) At least 12 months old and younger than 5 years old, a bed, cot, mat, or sleeping bag, except as provided in §D of this regulation.

D. Upon request by the child's parent, the provider shall furnish a crib, portable crib, or playpen as the resting place of a child who is at least 12 months old and younger than 2 years old.

E. Each crib, portable crib, and playpen that is used for child care shall meet the standards of the U.S. Consumer Product Safety Commission.

F. Soft bedding items, including but not limited to pillows, quilts, comforters, and crib bumpers, may not be used as rest furnishings for a child who uses a crib.

G. Each child in overnight care, if provided, shall:
   (1) Sleep in a separate bed or crib that is appropriate to the child's age, size, and needs; and
   (2) Have separate clean linens and toiletries.

_INTENT_

• (A) All rest furnishings used by children in care must be safe, clean, and age-appropriate. Cribs/portacribs/playpens must meet national safety standards.

• (F) Soft bedding items are a potential safety hazard for children under 12 months who uses a crib and are prohibited. A parent who requests that a child sleeps in a crib who is at least 12 months old and younger than 2 years old, may authorize the child to have a special blanket, stuff animal, etc. in the crib. If so, parental authorization to place those items in the crib with the child is required.

• Overnight care must have prior approval of the Regional Office and must be provided as approved.

INSPECTION REPORT ITEM: “Rest Furnishings”

COMPLIANCE CRITERIA:

• There is enough rest equipment to provide an individual resting place for each child.

• Each rest equipment item is safe, comfortable, and appropriate to the child(ren) using it.

• All bedding and bed linens are clean.

• For each child younger than 12 months old approved for care, there is a crib, portacrib, or playpen that meets Consumer Product Safety Commission (CPSC) standards.
COMAR 13A.15.05 Home Environment and Equipment

- For each child younger than 12 months old and younger than 5 years old using a cot, bed, or mat, there is in the child’s file a written agreement, signed by the provider and the parent, that the child is developmentally ready for that use.

- Soft bedding items are not used with any child younger than 12 months old

- If overnight care is provided:
  - The Provider has been approved by the Regional Office to do so;
  - Care is provided in accordance with the Provider’s approved written overnight care plan. (see resource document "Overnight Care in Family Child Care Homes";)
  - There are individual sleep furnishings for each child that are clean, safe, and age-appropriate; and
  - The Provider has documentation showing that each child’s parent have agreed to the child’s sleeping arrangements.

**ASSESSMENT METHOD:**

- Observation to determine:
  - The number, type, appropriateness, and safety of rest equipment items that are available for children, and
  - Adequacy, suitability, cleanliness, and safety of bedding items and bed linens.

- As appropriate, review of child files to determine the presence of the required provider/parent agreement regarding cot/bed/mat use by child(ren) at least 12 months old and under 5 years old, and if applicable, parent request to have 12 month old child sleep in a crib.

- If overnight care is provided, observation or discussion, as appropriate, and review of child files to determine the nature and appropriateness of overnight sleep furnishings and agreement on sleeping arrangements.

**Notes:**

- **Presence of Cribs, etc.:** Even if there is a signed agreement that a given child under 12 months old is ready to use a cot, bed, or mat, the Provider must still have a CPSC-approved crib/portacrib/playpen present at the home for each child under 12 months approved for care.

  - If the Provider are approved to care for children under 2 years old, but those children are not present or enrolled at the time a licensing inspection is conducted, the cribs/portacribs/playpens do not need to be set up for use. It is sufficient for the Licensing Specialist to verify that the required number of cribs, etc., are present in the Provider’s
home and available for use, and that they meet CPSC standards. (NOTE: To help make sure the cribs in the home are safe, refer to resource document, “Crib Safety Tips”.

- When in use, cribs, portacribs, playpens, and cots should be placed so that an adult can move easily between them to reach children who need individual attention and, especially, to reach children in case of fire or other emergency. These items should be placed at least 3 feet apart if set side by side or 18 inches apart if set end to end.

- **Sofas and Sofa-beds**: Ordinary sofas may not be used for rest purposes. Sofa-beds may be used, but only for children 2 years old and older and only if opened as beds and covered with appropriate, clean bed linens. If using a sofa-bed, the provider or substitute must take precautions to prevent the child from:
  - Being injured by the folding mechanism, and
  - Slipping down between the mattress and the interior frame of the sofa-bed.

- **Soft Bedding**: The prohibition on soft bedding extends to any bedding item that may pose a risk of suffocation when used with children who are less than 12 months old. Items that may not be used include soft surfaces such as non-firm or saggy mattresses, cushions, sleeping bags, and thick or fluffy blankets. A thin blanket may be used if it is tucked securely around the mattress and does not cover the infant beyond the infant’s chest. (NOTE: For infants, the National Institute of Child Health and Human Development has recommended using a sleeper instead of a blanket, with no other covering.)

- **To help reduce the risk of Sudden Infant Death Syndrome (SIDS)**, the **Consumer Product Safety Commission and the American Academy of Pediatrics recommend that infants under the age of 12 months always be placed on their backs to sleep, unless indicated otherwise by their pediatricians.**
Family Child Care Licensing Manual
(November 2016)

For use with
COMAR 13A.15 - Family Child Care
(as amended effective 7/20/15)

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01. Minimum Age.
To be approved as a family child care provider, an individual shall be 18 years old or older.

**INTENT:** Setting a minimum age of 18 increases the chance that the Provider will be mature enough to handle the responsibilities associated with caring for other people’s children. In addition, Maryland law (the Commercial Law Article, §1-103) requires a person to be at least 18 years old to enter into a contract. This requirement is pertinent to family day care because the Provider must establish written service agreements with parents.

**Note:** If there is a question about the Provider’s age, the Provider must produce proof of age such as a driver’s license, birth certificate, or passport.

02. Training Requirements.
A. Pre-service Training. An individual who applies for an initial registration shall:
   1. Hold a current certificate indicating successful completion of training in approved:
      a. Basic first-aid through the American Red Cross, or a program with equivalent standards; and
      b. Cardiopulmonary resuscitation (CPR) through the American Heart Association, or a program with equivalent standards, appropriate for each age group approved for care in the home;
      c. If requesting approval to provide care for children younger than 24 months old, present evidence of having successfully completed, within 5 years before the date of the request, approved training in Sudden Infant Death Syndrome; and

      (See “First Aid/CPR/SIDS – Approved Training Sources”)
   2. Provide documentation of having successfully completed:
      a. Within 2 years before the application for initial registration is filed, at least 24 clock hours of approved training that includes 4 clock hours in each of the six core of knowledge competencies;
      b. The 90 clock hour course, or its approved equivalent, that satisfies the pre-service training requirement for a child care teacher or child care center director under COMAR 13A.16.06.0B(4), .09(A)(1)(b), or .10B(1)(a), as applicable;
      c. Department of Defense training modules for child care providers;
      d. The Child Development Associate Credential issued by the Council for Professional Recognition;
      e. An associate's degree that includes at least 15 semester hours of early childhood education or elementary education course work;
      f. A bachelor's or higher degree in early childhood education, elementary education, or other discipline approved by the office; or
      g. Other course work approved by the office;
   3. Complete approved training on emergency and disaster planning; and
   4. If applying on or after January 1, 2016, complete:
      a. Approved training in supporting breastfeeding practices;
INTENT: As a first-time applicant, the Provider must be prepared to meet the basic health and safety needs of children, plan for the children’s daily developmental needs, respond to emergencies (child and property related) and manage all program functions. The specified pre-service training is a minimum amount of training to give the Provider some basic knowledge in these areas.

INSPECTION REPORT ITEM: “Training Requirements”

COMPLIANCE CRITERIA:

- The 24 clock hours of required pre-service training was completed within no more than two (2) years before the Provider’s application was received at the Regional Office, or other approved early childhood development coursework has been completed.

- SIDS training was completed at least 5 years prior to date the Provider requested to care for children under the age of 2 years.

- The Provider is currently certified by OCC-approved certification sources in first aid and CPR. Both certifications are appropriate to all ages of children approved for care in the Provider’s home. The CPR certificate states “successful completion” of requirements.

- Required pre-service training in emergency and disaster planning, supporting breastfeed practices, the Americans with Disabilities Act, and the 6-hour medication administration course has been completed.

ASSESSMENT METHOD: Review of documentation the Provider has submitted to the Regional Office. Acceptable documentation includes training certificates with the trainer’s approval number, the Provider’s name, the course or workshop title, the number of hours completed (except for first aid and CPR certification), and the completion date; letter of attendance issued by the training source, or school transcripts. The Provider may use OCC 101 “Record of Pre-Service Training for Family Child Care Applicants” to record courses.

Note: To obtain information about the availability, locations, and costs of approved pre-service training courses, the Provider may call the Regional Office or contact the Maryland Child Care Resource and Referral Network (MCCRN) agency serving the Provider’s area. The list of local R&R offices may be found at: http://www.marylandfamilynetwork.org/programs-services/maryland-child-care-resource-network/maryland-child-care-resource-center-locations/
B. Continued Training. A provider shall successfully complete:
   (1) During the first year of registration, 18 clock hours of approved training specified by the office; and
   (2) By the end of each 12-month period after the first full year of registration, a total of 12 clock hours of approved continued training that consists of:
      (a) At least 6 clock hours of core of knowledge training; and
      (b) Not more than 6 clock hours of elective training.

**INTENT:** A family child care provider must have sufficient continued training to keep abreast with current early childhood issues.

**INSPECTION REPORT ITEM:** “Training Requirements”

**COMPLIANCE CRITERIA:** The Provider completes at least 18 clock hours of approved continued training during the first full year of registration, and completes at least 12 clock hours of approved continued training during each subsequent full year of registration.

**ASSESSMENT METHOD:** Review the Provider’s completed Professional Development Plan with attached documentation of trainings completed to determine if the Provider has completed continued training as required during the previous full year of registration.

**Notes:**

- The Provider must use “OCC 100 - Record of Professional Development Coursework” to note continued training coursework.

- This regulation is met if the individual participates in the OCC Credentialing Program and has a current certificate noting achievement at Level 2 or above. Check the expiration date on the credential certificate. If expired, the individual must produce evidence of 12 hours of continued training.

- If individual states that the certificate is not expired, check with the Credentialing Branch for verification.

- The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.

C. Emergency and Disaster Planning Training.
   (1) The office shall not approve an initial registration application unless the applicant has completed approved training on emergency and disaster planning.
(2) To maintain an initial registration or a continuing registration approved before July 1, 2010, a provider shall complete approved training on emergency and disaster planning as directed by the office, if the provider has not already completed that training.

**INTENT:** The Provider must know what action to take in case of an emergency or a disaster.

**INSPECTION REPORT ITEM:** “Training Requirements”

**COMPLIANCE CRITERIA:** The Provider completed emergency preparedness training.

**ASSESSMENT METHOD:** Review of certificate of completion.

*Note:* Completion of the emergency preparedness training also results in the completion of an emergency and disaster plan for the child care home.

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**D. Professional Development Plan.**

(1) The provider shall maintain a professional development plan.

(2) Training complete by the provider under §B of this regulation shall be:

   (a) Consistent with the provider’s professional development plan; and

   (b) Documented by the provider on the professional development plan.

*Note:* The Provider must use “OCC 100 - Record of Professional Development Coursework” form to note continued training coursework.

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**E. Current certification in approved basic first aid and CPR training as specified in §A(1)(a) and (b) of this regulation shall be maintained at all times by:**

(1) The provider; and

(2) If applicable, the additional adult.

*(See “First Aid/CPR/SIDS – Approved Training Sources”)*

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**F. Sudden Infant Death Syndrome (SIDS) Training.**

(1) The office may not approve a request by an applicant or a provider to provide care for children younger than 24 months old unless the applicant or provider has met the requirements of §A(1)(c) of this regulation.

*(See “First Aid/CPR/SIDS – Approved Training Sources”)*

(2) SIDS training may not be used to satisfy the continued training requirements set forth in §B of this regulation.

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**G. Infant-Toddler Training.**

(1) Effective July 1, 2010, the office shall not approve a request by an applicant or a provider for an infant/toddler capacity of more than two children younger than 2 years old unless the individual has completed 3 semester hours or 45 clock hours of approved
training, or the equivalent, related exclusively to the care of children younger than 2 years old.

(2) A provider approved before July 1, 2010, for an infant-toddler capacity of more than two children younger than 2 years old shall complete, by December 31, 2010, 3 semester hours or 45 clock hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old in order to maintain that approval.

*Note:* If the Provider applies to care for more than 2 children under age of 2, three (3) semester hours or 45 clock hours of approved training related to the care of children younger than 2 years old must have been completed.

H. Medication Administration Training. Effective January 1, 2016:

(1) The office may not approve an application for an initial registration or a continuing registration unless the applicant has completed medication administration training approved by the office; and

(2) A currently registered provider shall have completed medication administration training approved by the office.

*Note:* The 6-hour “Medication Administration” course is conducted by licensed registered nurses approved by the Office. A list of approved RN’s may be found at: http://earlychildhood.marylandpublicschools.org/system/files/filedepot/3/matrainlist.pdf

.03 Provider Substitute.

A. The provider shall designate at least one substitute who is available on short notice to care for the children.

**INTENT:** If the Provider need to leave the home temporarily, the Provider must have at least one substitute who can come to the home quickly to provide child supervision and care and to ensure program continuity during the Provider’s absence.

**INSPECTION REPORT ITEM:** “Provider Substitute”

**COMPLIANCE CRITERIA:** The Provider have at least one approved substitute who can be at the home within 15 minutes of notification.

**ASSESSMENT METHOD:** Review of substitute-related documentation in the Provider’s Regional Office licensing file.

**Notes:**

- The substitute must care for the children at the Provider’s registered care location.

- One registered provider (Provider A) may serve as the substitute for another registered provider (Provider B) only if the following conditions are met:
Provider A cannot be Provider B’s primary or only substitute. Provider B must designate at least one other person to serve as her primary substitute, and Provider A may be used only if the primary substitute is unavailable.

If Provider A will be accompanied by the children in her own care:

Provider A must have prior written authorization from the parents of the children in Provider A’s care for Provider A to serve as Provider B’s substitute and to transport the children to Provider B’s registered family child care home; and

The total of Provider A’s children and Provider B’s children may not exceed the approved capacity of Provider B.

Both providers must remain in compliance with all applicable requirements (for example, Provider A must bring along the emergency cards for the children in her care).

B. Approval by Office.
   (1) An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.
   (2) If information received by the office indicates that an individual designated as a substitute may present a risk to the health, safety, or welfare of children in care, the office may disapprove the use of that substitute.

C. Use of Substitutes.
   (1) A provider may use a substitute to:
   (2) Provide care for children during a temporary absence of the provider; and
   (3) Assist in providing care while the provider is present.
      (a) Unless the office approves an additional number of days in advance, the use of substitutes to provide care in the provider's absence is limited to a total of not more than 20 working days in any 12-month period, counting only days on which substitute care is provided for more than 2 hours.

D. A substitute shall:
   (1) Be 18 years old or older;
   (2) Be familiar with this subtitle;
   (3) Complete, sign, and submit to the office the required forms for substitutes, which include permission to examine records of abuse and neglect of children and adults;
   (4) If paid, apply for a federal and State criminal background check at a designated law enforcement office in the State; and
   (5) Present no risk to the health, safety, or welfare of children.

INTENT: A substitute is used only to assist the Provider or fill in for the Provider during a temporary absence. Since a substitute will have child care responsibilities, she or he must be old enough to assume those responsibilities. The person must be aware of family child care regulations so that she or he will know what is required. The person must provide certain
personal information and permit criminal background checks and clearances so that the Office can determine if it is safe for the person to work with children in care.

INSPECTION REPORT ITEMS: “Provider Substitute”

COMPLIANCE CRITERIA: The Regional Office has received:

- Proof of age (if needed)
- A completed and signed “Substitute Form” (OCC 1229)
- Sign and notarized form OCC 1260 “Release of Information” and
- The acknowledgement of application for criminal background check (if the Provider pays the substitute)

ASSESSMENT METHOD:

- Review of substitute-related documentation in the Provider’s Regional Office licensing file.
- Discussion with the Provider to determine how and under what circumstances the substitute is used.
- Discussion or review of documentation to determine if parents are notified in advance each time substitutes provide care for more than 2 hours in a day.

E. Before allowing a substitute to provide or to assist in providing care, the provider shall orient the substitute to child health and safety matters, including, but not limited to:

1. The location of the:
   (a) Telephone and emergency telephone numbers;
   (b) First aid supplies; and
   (c) Child emergency forms;

2. Medication administration information for each child authorized to receive medication;

3. Modified diet information for each child placed on a modified diet;

4. Emergency evacuation procedures;

5. Permissible and appropriate child discipline procedures;

6. Authorized child release procedures; and

7. Procedures for documenting and reporting child injuries and accidents.

INTENT: To provide proper care and supervision of the children, the substitute needs certain information. The Provider must give this information to the substitute before she or he begins working with the children. If any of the information changes over time, the Provider must inform the substitute of the changes.

INSPECTION REPORT ITEM: “Provider Substitute”

COMPLIANCE CRITERIA: There is documentation that the Provider has informed the substitute(s) as required.
ASSESSMENT METHOD: Review documentation kept by the Provider.

Note: The Provider may use the “Substitute/Additional Adult/Volunteer Orientation Verification Form” to show proof that the substitute was informed as required.

F. During the provider's absence, a substitute is responsible for meeting the requirements of this subtitle regarding the:
   (1) Supervision and protection of each child in care; and
   (2) Operation of the family child care home.

INTENT: If the Provider is not present, the substitute is responsible for operating the program and caring for the children in accordance with family child care regulations.

.04 Additional Adult.
A. Except as set forth in §B of this regulation, before an individual may be used as an additional adult, the provider shall ensure that the individual:
   (1) Is 18 years old or older;
   (2) Attends an information session presented by the office concerning the requirements of this subtitle for the care of children younger than 2 years old;

Note: The Regional Office will provide the additional adult information session at the Provider’s home using the “Infant Toddler Orientation Checklist” form.

   (3) Files with the office:
      (a) A completed additional adult application form;
      (b) Signed and notarized release forms giving the office permission to examine records of abuse and neglect of children and adults for information about the applicant;
      (c) Completed information, on a form supplied by the office, for each of the applicant's substitutes; and
      (d) A medical report on the applicant based on a medical evaluation conducted within the previous 12 months by a practicing physician, certified nurse practitioner, or registered physician's assistant, and signed by the individual who conducted the evaluation;
   (4) If the individual will be paid, applies for a federal and State criminal background check at a designated office in the State;
   (5) Holds a current certificate indicating successful completion of approved basic first aid and CPR training applicable to children younger than 2 years old; and
   (6) Presents evidence of having completed approved SIDS training within the previous 5 years.

INTENT: A Provider, caring for three or four children under the age of 2 years, needs additional assistance to ensure the health, safety, and welfare of the children in care. An additional adult is required for this purpose. The Additional Adult must provide certain personal
COMAR 13A.15.06 Provider Requirements

information and permit criminal background checks and clearances so that the Office can determine if it is safe for the person to work with children under age 2. Infant and Toddler CPR/First Aid and SIDS training is essential when caring for children under age 2. The required Infant-Toddler orientation offered by the Office helps to ensure that the Additional Adult understands the needs of children under age 2 and how to provide the appropriate care.

INSPECTION REPORT ITEM: “Additional Adult”

COMPLIANCE CRITERIA: The Regional Office has received:

- Proof of age (if needed);
- A completed “Additional Adult Application” (OCC 1275);
- A complete “Medical Report” (OCC 1204);
- Sign and notarized form OCC 1260 “Release of Information”;
- The acknowledgement of application for criminal background check (if the Provider pays the additional adult);
- Current First Aid/CPR certificate applicable to children younger than 2 years old;
- Evidence of having completed approved SIDS training within the previous 5 years; and
- Completed and signed “Substitute(s) Form” (OCC 1229) for the Additional Adult
- Completed and signed Infant – Toddler Orientation Checklist

ASSESSMENT METHOD:

- Review of additional adult-related documentation in the Provider’s Regional Office licensing file.
- Discussion with the Provider to determine how and under what circumstances the “Additional Adult Substitute(s)” is used.
- Discussion or review of documentation to determine if parents are notified in advance each time the “Additional Adult Substitute(s)” provide care for more than 2 hours in a day.

B. A provider may not use an individual as an additional adult unless the office has approved the individual in that capacity.

.05 Volunteers.

A. Before permitting an individual to begin volunteer duties at the family child care home, the provider shall:

(1) Ensure that the individual presents no risk to the health, safety, or welfare of children;

Note: While not required, some providers may elect to get CBCs on their volunteers. If they do so, and find something in the criminal history that could pose a risk to the health, safety, or welfare of children in care, the Provider must prohibit the volunteer from caring for children.
(2) Conduct a child health and safety orientation for the individual that meets the requirements set forth in Regulation .03E of this chapter.

*Note:* The Provider must use the “Substitute/Additional Adult/Volunteer Orientation Verification Form” to show proof that the volunteer was informed as required.

B. The provider, substitute, or additional adult shall accompany a volunteer whenever the volunteer is in the presence of an unrelated child in care.

C. A volunteer who is younger than 18 years old may not be permitted to work with a child in care who is younger than 2 years old.

**INTENT:** (B-C) For the safety of the children in care, each volunteer must be monitored closely by the Provider, substitute or additional adult whenever the volunteer is in the presence of an unrelated child; and only adults 18 years or older may work with children under age 2.

**INSPECTION REPORT ITEM:** “Volunteers”

**COMPLIANCE CRITERIA:** Each volunteer at the center is:

- Monitored closely by the Provider, substitute, or additional adult, as applicable, whenever in the presence of an unrelated child, and

- 18 years old or older if working with children under age 2 years old.

**ASSESSMENT METHOD:**

- Observe each volunteer to determine if, when, and how monitored. If observation is not possible, interview the Provider or substitute to determine monitoring level and procedures.

*Note:* For detailed guidelines concerning the use of volunteers and practicum students, see resource Guide entitled “Volunteers and Practicum Students in Child Care Facilities”. 
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(November 2016)

For use with

COMAR 13A.15 - Family Child Care
(As amended effective 7/20/15)

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.01 Prohibition of Abuse, Neglect, and Injurious Treatment.
A child in care may not be subjected to abuse, neglect, mental injury, or injurious treatments as defined in COMAR 13A.15.01.02B.

**INTENT:** Maryland law forbids corporal punishment of a child, in any form, by anyone other than the child’s parent or legal guardian. No child may be subjected (or allowed to be subjected) to abuse, neglect, or injurious treatment by any person connected with the family child care home.

**INSPECTION REPORT ITEM:** “Prohibition of Abuse, Neglect, Injurious Treatment”

**COMPLIANCE CRITERIA:** No child in care is being abused, neglected, or subjected to mental injury, or injurious treatment.

**ASSESSMENT METHODS:**

- Observations of the interactions between the Provider/Additional Adult/Substitute and other residents of the home to determine whether abuse or neglect are suspected, or injurious treatment is occurring.
- If child abuse or neglect is suspected, CPS is contacted.
- If injurious treatment is occurring, OCC established procedures are followed.

**Notes:**

- “Abuse”, “injurious treatment”, “mental injury” and “neglect” are defined in 13A.15.01.02B(1), (20), (21), and (22) respectively.
- If CPS has determined that abuse or neglect occurred at the home, the Regional Office may move to suspend the Provider’s registration on an emergency basis.
- If licensing staff has determined that injurious treatment occurred at the home, the Regional Office may move to suspend the Provider’s registration on an emergency basis.

.02 Abuse/Neglect Reporting.
An individual who is responsible for providing care to a child:
A. Shall monitor the child for signs and symptoms of child abuse or neglect; and
B. If the individual has reason to believe that a child in care has been:
Abused, shall report that belief directly to the protective services unit of the local department of social services or to a law enforcement agency, as required under Maryland law; or

Neglected, shall report that belief directly to the protective services unit of the local department of social services as required under Maryland law.

**INTENT:** Each child must be monitored daily for any indication that he or she may have been subject to abuse. Suspicions of abuse or neglect must be reported immediately to the Child Protective Services unit in the local Department of Social Services (DSS) or to local police authorities. If injurious treatment has occurred in the family child care home by anyone associated with the home, it must be reported immediately to the Regional Office.

**INSPECTION REPORT ITEM:** “Abuse and Neglect Reporting”

**COMPLIANCE CRITERIA:**

- Each day, the Provider observe the appearance and behavior of each child for any indication of abuse or neglect (see “Signs and Symptoms of Child Abuse, Neglect, and Mental Injury.”)

- Suspected:
  - Abuse is reported immediately to Child Protective Services or police authorities;
  - Neglect is reported immediately to Child Protective Services; and
  - Injurious treatment is reported immediately to the Regional Office.

- The Provider has informed each substitute, the additional adult (if applicable), and all residents of the proper procedure for reporting suspected abuse or neglect.

- Telephone numbers for the local CPS Unit and police department are posted in the family child care home and readily accessible.

**ASSESSMENT METHOD:** Observation to determine:

- If the provider/additional adult/substitute is monitoring children for abuse or neglect. Alternatively, discussion to determine if, how, and when the children are monitored.

- If the provider/additional adult/substitute knows proper abuse/neglect reporting procedures. If observation is not possible, discussion to determine if and how each of these persons knows the correct procedures.
.03 Applicability to Residents.
The requirement set forth in Regulation .01 of this chapter also applies to a resident of the family child care home.

**INTENT:** Each resident is subject to the same abuse/neglect reporting requirements and the same abuse/neglect/injurious treatment prohibitions as the provider.

.04 Child Discipline.
A. Child discipline shall be:
   (1) Appropriate to the age, maturity, and physical condition of the child; and
   (2) Consistent with the requirements of this subtitle.
B. The provider or substitute may not:
   (1) Force a child to eat or drink;
   (2) Punish a child for refusing to eat or drink; or
   (3) Withhold food or beverages as punishment.

**INTENT:** The Provider’s child discipline policy and procedures must be appropriate to the age and maturity of the child and must not cause harm or pain to the child.

**INSPECTION REPORT ITEM:** “Child Discipline”

**COMPLIANCE CRITERIA:** All child discipline techniques are appropriate and do not cause harm or pain to children in care.

**ASSESSMENT METHODS:**

- Observation to determine the nature and appropriateness of the Provider’s discipline procedures.
- If observation is not possible, discussion to determine how the children are disciplined.

**Notes:**

- The Provider’s child discipline policy and procedures must be in writing and made available to parents at the time they enroll their children in the Provider’s child care program. The discipline policy and procedures must be included in the written agreement as required at 13A.15.03.03A(2).
- The Office may deny a registration application or suspend or revoke a registration if there is evidence that the applicant, provider, additional adult, substitute, or resident has subjected a child to abuse, neglect, mental injury, or injurious treatment. Alternatively, the Office may require the Provider to enter into a compliance agreement or impose other intermediate sanctions.
.05 Parental Access.

The provider or substitute shall permit the parent of a child in care to have access to the child at all times and to observe the areas of the home used for child care during the provider's hours of operation.

**INTENT:** Whenever the Provider’s home is in operation, parents must have access to their children and to the areas of the home that are approved for care. Parents do not need to notify the Provider in advance of a visit to the Provider’s home during operating hours.

**INSPECTION REPORT ITEM:** “Parental Access”

**COMPLIANCE CRITERIA:** Without prior notification, parents have free access to their children and to the approved child care areas at all times during operating hours.

**ASSESSMENT METHOD:** Observation to determine if parents have free access. If observation is not possible, discussion to determine if, when, and where parents have access.

.06 Authorized Release.

A. Except as indicated in §B of this regulation, the provider or substitute shall release a child only to the child's parent or to another individual if directed by the parent and if the identity of the other individual is verified by the provider or substitute.

B. In case of the death, disappearance, incapacity, or sudden unavailability of the parent or individual designated to pick up the child, or when requested by Child Protective Services, the provider or substitute may release the child to a Child Protective Services worker.

**INTENT:** In order to protect children from harm (and the Provider from liability), the Provider may not release a child to anyone except the child’s parent or legal guardian, an identified person who has been explicitly named by the parent, or an identified Child Protection Services worker.

**INSPECTION REPORT ITEM:** “Authorized Release”

**COMPLIANCE CRITERIA:** The Provider have a policy to ensure that each child is released only to:

- The child’s parent or legal guardian,

- A person identified as being someone authorized by the parent or guardian to pick the child up, as stated on the child's “Emergency Form” (OCC 1214) or in a special written authorization for a specific date or situation (see “Notes” below), or
• An identified Child Protection Services worker.

**ASSESSMENT METHOD:** Discussion to determine if:

• There is a child release policy,

• Each substitute and additional adult, if appropriate, is aware of the policy, and

• The policy is routinely followed.

**Notes:**

• The “Emergency Form” OCC 1214 is intended to provide the names and contact information for persons who are routinely authorized to pick the child up if the parent or guardian is unavailable. However, a parent may want to have the child picked up from the Provider’s home by someone else as part of a special occasion or activity (for example, an out-of-town relative who has arrived for a visit, or a car pool driver for an afterschool sports practice). In this type of situation, the Provider may release the child only if:

  ➢ The parent has specified to the Provider in writing what the purpose of the special arrangement is, who is expected to pick the child up, and when the pick-up will occur, and

  ➢ The Provider is able to verify the identity of the person who arrives for the child.

• If a parent or legal guardian who seems to be intoxicated shows up to pick up the child, the Provider has no right to deny the person access to the child or to prevent the person from taking the child. However, the Provider do have the right to contact Child Protective Services immediately to express concern about the apparent condition of the person and the possible risk to the child. The following are some other courses of action the Provider may wish to consider:

  ➢ If the person seems so intoxicated that the child would be placed at risk of serious and immediate harm by being released to the person, the Provider can call the police. Likewise, if the person poses a threat to the Provider or any of the other children, the Provider can call the police and request immediate assistance. If possible and prudent, the Provider may try to stall the person until the police arrive.

  ➢ If there is another parent or authorized adult noted on the child’s “Emergency Form” OCC 1214, the Provider may try to contact that person to explain the situation and request the person’s assistance.
If the person plans to drive the child home, the Provider might suggest using an alternative means of transportation (for example, calling a taxi). However, the Provider must remember that the intoxicated parent or legal guardian has the right to remove the child, and the Provider should not take any action that will put the Provider or any other child in danger.

.07 Child Security.
   A. The provider shall ensure the safety and security of each child at all times.

      **INTENT:** The Provider is fully responsible at all times for the safety, health, and welfare of each child in attendance.

   B. Whenever an area of the home is being used for a child care activity and children are present, the provider may not allow that area to be used at the same time for any other purpose without prior approval of the office.

      **INTENT:** Areas approved for child care may not be used for any purpose other than child care activities if children in attendance are present in that area.

      **INSPECTION REPORT ITEM:** “Child Security”

      **COMPLIANCE CRITERIA:** If children are present in an approved child care area, the area is used only for child care related activities.

      **ASSESSMENT METHOD:** Observation of each approved area that has children present to determine whether any activity not related to child care is occurring.

   C. In addition to meeting all other child supervision requirements of this subtitle, the provider shall ensure that an individual who meets the requirements of this subtitle for supervising children in care:
      (1) Accompanies a child whenever the child is in the presence of an individual at the home who is not:
          (a) Another individual who meets the requirements of this subtitle for supervising children in care;
          (b) The child's parent, guardian, or other individual to whom the child may be released under Regulation.06 of this chapter;
          (c) An individual who is authorized by the child's parent or guardian, and whose identity is verified by the provider, to provide a health care, educational, or other service to the child;
          (d) Another child enrolled in care; or
          (e) A child who resides at the home; and
      (2) Remains within sight and sound of an independent contractor performing a service at the home whenever the independent contractor is in an area where a child is present, unless documentation is on file at the family child care home.
that the contractor has successfully passed federal and State criminal background checks and a review of child abuse and neglect records.

**INTENT:** With certain stated exemptions, an individual who has successfully completed federal and State criminal background checks and a child abuse and neglect clearance must chaperone a child in care whenever the child is in the presence of a person who is not officially associated with the family child care home. A similarly screened individual must remain within sight and sound of an outside contractor if that contractor has not passed background checks and clearance, and is in an area where children are present.

**INSPECTION REPORT ITEM:** “Child Security”

**COMPLIANCE CRITERIA:** Each child is chaperoned as required whenever the child is in the presence of a person who is not officially associated with the family child care home. Only individuals who have successfully completed both criminal background checks and a child abuse and neglect clearance are alone with children at any time, unless that person is exempted by regulation.

**ASSESSMENT METHOD:** If a visitor or other non-exempted outsider is present, observe to determine if each child in that person’s presence is chaperoned as required. If observation is not possible, interview the Provider to determine how and by whom this requirement is met.

**Notes:**

- A person hired by the parent of a child in care to provide a particular service only to that child is not considered to be an “independent contractor” as explained at 13A.15.01.02B(19)(b).

- The requirement for a child to be chaperoned during a “third-party” activity is intended only where the activity has been arranged (wholly or in part) at the program level and may be open to participation by other children in care.

- A child may not participate in a “third-party” activity without prior written permission from the child’s parent.
Family Child Care Licensing Manual
(November 2016)

for use with

COMAR 13A.15 - Family Child Care
(as amended effective 7/20/15)

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COMAR 13A.15.08 CHILD SUPERVISION

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.01 General Supervision.

A. An individual may not have responsibility for supervising a child in care unless the individual meets the requirements of this subtitle pertaining to a provider, substitute, or additional adult, as applicable.

**INTENT:** To protect the health, safety, and welfare of children, an individual who has responsibility for supervising children in care must meet applicable requirements as outlined in COMAR 13A.15.02.02 and 13A.15.06 before being permitted to supervise any child in care.

**COMPLIANCE CRITERIA:** Each person having child supervision responsibility has first met all applicable requirements.

**ASSESSMENT METHOD:**

- Through observation and discussion with the Provider, identify each person who has child supervision responsibility.

- Review of documentation in the Provider’s licensing file to verify that, in each case, all applicable requirements were met before the person began supervising any child.

B. Except as provided in Regulation .02C and D of this chapter, when a child is in attendance, the individual responsible for supervising the child shall at all times:

1. Be alert and responsive;
2. Know where the child is;
3. Be able to see or hear the child;
4. Be near enough to the child to render immediate assistance; and
5. Provide supervision appropriate to the individual age, needs, capabilities, activities, and location of the child and may include, but not limited to:
   a. Making reasonable accommodations for a child with special needs in accordance with applicable federal and State laws; and
   b. If applicable, allowing an adult who provides specialized services to a child in care having special needs to provide those services at the home in accordance with the child’s individualized education plan, individualized family services plan, or written behavioral plan.

**INTENT:** The provider, additional adult, and/or substitute (as applicable) is responsible for the safety and appropriate supervision of the child at all times and must be able to render immediate assistance to the child if necessary. (See resource guide, “Supervising Children”)

**INSPECTION REPORT ITEMS:** “General Supervision”
COMAR 13A.15.08 Child Supervision

**COMPLIANCE CRITERIA:** At all times, the person responsible for each child:

- Knows where the child is,
- Can see or hear the child,
- Provides supervision appropriate to that particular child, and
- Is near enough to the child to render immediate assistance.

**ASSESSMENT METHOD:** Observation to determine the level and appropriateness of each child’s supervision and the proximity of the person supervising the child. If necessary, discussion with the person supervising to determine her or his knowledge of the child’s whereabouts.

C. The provider or substitute shall:

1. **Remain inside the home while a child in care younger than 6 years old is present inside the home; and**

   **Notes:**

   - At all times, awake/active infants and pre-school children are within sight or sound of the provider or substitute and on the same level of the home.
   - Children 6 years old or older may be on a different level of the home from the provider or substitute if:
     - They are checked often enough to ensure their health, safety, and welfare, but at least every 15 minutes;
     - They have demonstrated by their behavior they can abide by limits the Provider have set;
     - Their parents are aware of the multi-level supervision; and
     - That level of the home is approved for use and meets the applicable fire code.

2. **Accompany a child in care who is younger than 6 years old whenever the child is outside of the home.**

   **Notes:**

   - The Provider must be physically present with infants and preschool children at all times when outdoors.
   - Children 6 years old or older may be outside without the Provider if:
     - They remain within sight or sound and are checked often enough to ensure their health, safety and welfare, but at least every 15 minutes;
     - They have demonstrated by their behavior that they can abide by limits the Provider have set;
     - Their parents are aware of the outdoor supervision; and
     - They are not in or around a pool.
D. Supervision of Resting Children.
(1) If a resting or napping child is younger than 2 years old, the provider or substitute shall:
   (a) Remain within sight and sound of the child; and
   (b) Observe the child at least every 15 minutes to determine that the child is safe, breathing normally, and in no physical distress.
(2) If a resting or napping child is 2 years old or older, the child:
   (a) May be on a different level of the home from the provider or substitute if:
      (i) That level is approved by the office for child care use; and
      (ii) The provider has informed the child’s parent that the child is permitted to be on a different level of the home; and
   (b) Shall be observed by the provider or substitute to ensure the child’s safety and comfort at intervals appropriate to the child’s age and individual need.
(3) If a resting or napping child is in a different room from the provider or substitute and that room can be closed off from the rest of the home by a door, screen, or similar furnishing, the provider or substitute shall ensure that the door, screen, or similar furnishing remains open so that the view into the room is unobstructed.

E. The provider may use a video and sound monitoring system to meet the sound and sight requirement in §D(1)(a) of this regulation.

**INTENT:** (D-E) A sleeping child is a child whose safety and well-being must be actively and personally monitored. Video and sound monitors may be used to see and listen to sleeping children but visual checks must be made every 15 minutes for children under age 2 years to ensure that they are breathing normally and in no physical stress. A sleeping child under the age of 12 months is susceptible to SIDS and the Provider must take certain steps that have been shown to reduce the risk of SIDS.

**INSPECTION REPORT ITEM:** “Supervision of Resting Children”

**COMPLIANCE CRITERIA:**

The following are criteria for supervision of children during rest periods:

- The Provider or substitute is awake, alert, and inside the home.

- At appropriate intervals (at least every 15 minutes for a child younger than 2 years old) the Provider visually checks each child who is or may be asleep to assess the child’s safety, breathing, and physical comfort.

- The Provider informed parents of sleeping arrangements for children in care if children sleep on different levels of the home.

- Gates to stairways are in place and properly secured.
ASSESSMENT METHOD:

- Observation of:
  - The Provider or substitute to determine if awake, alert, and inside the home while children are resting or asleep.
  - The Provider or substitute to determine if at appropriate intervals (at least every 15 minutes for a child younger than 2 years old) the Provider or substitute visually checks each child who is or may be asleep to assess the child’s safety, breathing, and physical comfort.

- If applicable, review of documentation that the Provider informed parents of sleeping arrangements for children in care who sleep on different levels of the home.

- Gates to stairways are in place and properly secured.

- If observation is not possible, discussion with the Provider or substitute (or additional adult if applicable) to determine how sleeping children are supervised.

Notes: As also indicated at 13A.15.10.06:

- Unless the Provider has written instructions to the contrary from the child’s physician, the Provider places each child on his/her back for sleep if:
  - The child is younger than 12 month old, or
  - The child cannot roll over without assistance.

- The child is younger than 12 months, and can roll over unassisted, the child is allowed to adopt whatever position the child prefers to sleep.

- Unless the need for a positioning device that restricts a child’s movement while the child is resting is specified in writing by the child’s physician, an object or device, including but not limited to a strap, wedge, or roll, that restricts movement is not be used with a child in a crib, portacrib, playpen, cot, bed, mat, or other rest furnishing.

F. A child may not be left unattended on the premises of the home, in a motor vehicle, or during an off-site activity.

Note: Leaving a child unattended on the premises of the home, in a motor vehicle, or during an offsite activity may result in a finding of child neglect which could rise to the level of criminal charges filed against the individual responsible for supervision, and/or the Provider.
.02 Off-Site Supervision.

A. During an off-site activity, the provider or substitute shall exercise reasonable care to protect children from potentially hazardous areas and situations.

(See resource guide, “Supervising Children”)

B. If the outdoor activity space is not on the premises, the provider or substitute shall accompany and supervise a child of any age in transit to and from the space and while at the space.

**INTENT:** If the outdoor activity area is located away from the home, the Provider must be with each child at all times as the child moves between the Provider’s home and the activity area, and provide the level of supervision necessary to protect each child from harm.

**INSPECTION REPORT ITEM:** “Off-site supervision”

**COMPLIANCE CRITERIA:** The Provider accompany each child while traveling to and from outdoor activities away from the family child care home, and provides appropriate supervision while doing so.

**ASSESSMENT METHOD:** Observation of the children while in transit to or from the activity area. If observation is not possible, discussion with the Provider or the Provider’s substitute to determine how supervision is provided during transit.

C. Before a child may participate in a supervised activity out of the home without the provider or substitute, responsibility for the child's whereabouts and supervision shall be clearly assigned throughout the period of the activity.

**INTENT:** The Provider may not transfer responsibility for supervision of a child for any period of time unless the child’s parent has agreed in writing beforehand, and unless the provider knows where, how, and by whom the child will be supervised throughout that period.

**INSPECTION REPORT ITEM:** “Off-site Supervision”

**COMPLIANCE CRITERIA:**

- For each out-of-home activity involving a child, there is prior written parental permission.

- The Provider is fully aware of supervision arrangements for the child during the entire time that the child will be away from the home.
COMAR 13A.15.08 Child Supervision

ASSESSMENT METHOD:

- Observation that prior written permission is present in the child’s file.
- Review of the Provider’s documentation concerning out-of-home supervision arrangements. If there is no such documentation, discussion with the Provider to ascertain the Provider’s knowledge of those arrangements.

D. A child in care may not travel to or from school or a school transportation site without adult supervision unless the child is in the first or a higher grade.

**INTENT:** Kindergarten children may never be allowed to walk to school or the bus stop without adult supervision. A child enrolled in first grade may be allowed to travel unsupervised between the Provider’s home and school or a school bus stop only if the Provider and the child’s parent have agreed that the child is mature and responsible to do so and the route is safe enough for the child to travel alone.

**INSPECTION REPORT ITEM:** “Off-site Supervision”

**COMPLIANCE CRITERIA:** The Provider have documentation that, before allowing the child to travel alone, the Provider and parent have:

- Determined that the child is ready to walk alone,
- Agreed to that travel, and
- Established a safe travel route for the child.

**ASSESSMENT METHOD:** Review of the child’s file to determine if a written agreement is present.

**THIS IS A DUPLICATION – SEE 13A.15.08.01D.**

.03 Supervision of Resting Children.

To determine if a resting child is safe, breathing normally, and in no physical distress:

A. Each resting child shall be observed at intervals appropriate to the child’s age and individual needs; and

B. A resting child younger than 12 months old shall be observed at least every 15 minutes

.04 Water Activity Supervision.

A child engaged in swimming or wading shall be under immediate supervision by the provider or substitute at all times.
A. Whenever children are engaged in a swimming activity, at least two adults permitted to have child care responsibilities under this subtitle shall be present during the activity.

B. When water is over a child's chest and the child cannot swim, the provider or substitute shall be in the water with the child to provide one-to-one supervision.

C. When water is more than 4 feet deep, an individual 16 years old or older who holds a current certificate of approval for lifeguarding from the American Red Cross, YMCA, or other organization acceptable to the office or the local health department shall be present and on duty at all times while a child is in the water. A provider, substitute, or approved additional adult with the requisite certification may fulfill this requirement.

D. Even when a certified lifeguard is present, the provider or substitute shall retain responsibility for appropriate supervision of each child engaged in swimming or wading.

**INTENT:** Swimming is a potentially dangerous activity, especially for small children. Therefore, the Provider must ensure that each child is appropriately supervised and constantly monitored whenever the child is in the water. The Provider is responsible for each child’s safety at all times while the child is in participating in swimming activities even though a certified life guard is present.

**INSPECTION REPORT ITEMS:** “Water Activity Supervision”

**COMPLIANCE CRITERIA:**

- Each child is supervised as required and monitored constantly by the Provider or another adult present with the Provider for swimming activities.

- If water exceeds 4 ft. in depth, a person 16 years old or older, with current, approved lifesaving certification is present.

**ASSESSMENT METHOD:** Observation to determine if and how each child is being monitored and supervised. Otherwise, discussion with the Provider to determine how the children are monitored and supervised while participating in swimming activities.

**Notes:**

- If the Provider has a pool, the Provider must ensure that it meets all applicable State or local health department requirements.

- The Provider must have appropriate procedures for supervision of the children during water play, including how to accommodate children who are napping, toileting, or not engaged in water play.
• **It is strongly recommended that:**
  
  - Non-swimming children be allowed in water only if it is below their knees, and
  - One-on-one supervision must be provided to each child younger than 2 years during a water activity.

.05 Overnight Care Supervision.

A. If overnight care is provided, the provider or substitute shall, throughout the period of care:

1. Remain on the premises;
2. Remain on the same level of the home as the children in care; and
3. Respond to the feeding schedule, sleep habits, sleep disturbances, and age-appropriate bedtime routine of each child in care.

B. If overnight care is provided to four or more children at the same time, the provider or substitute shall remain alert and awake at all times.

**Notes:** For more information, see resource guide, “Overnight Care in Family Child Care Homes”.

- Overnight care is care provided between the hours of 12:00 A.M. and 6:00 A.M.
- Age- and gender-appropriate sleeping arrangements must be agreed upon by children’s parents and included in the Parent Agreement/Contract.
- An additional adult is needed on the premises if providing 24-hour care for four or more children.
- A plan of operation must be submitted to the Regional Office which includes:
  
  - Number and ages of children to be served
  - Meal and snack schedule
  - Name of substitute, if different from the day time substitute
  - Supervision plan
  - Bedtime routine
  - Evacuation plan

- Children in overnight care must sleep in beds or cribs. Cots are not acceptable for overnight care. Each child must have separate clean linens and toiletries.
- All rooms used for overnight care must be approved by the Fire Marshal.
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(November 2016)

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.01 Activities.

A. The provider shall prepare, post, and follow a written schedule of daily activities and offer activities that:

1. Promote the sound emotional, social, intellectual, and physical growth of each child;

2. Are appropriate to the age, needs, and capabilities of the individual child;

3. Include opportunities for individual and group participation;

4. Include a balance between self-selected and provider-directed activities;

5. Include a balance between active and quiet periods;

6. Include periods of rest appropriate to the age, needs, and activities of the child; and

7. Include outdoor play in the morning and afternoon, except that outdoor play need not be included:
   
   a. When the weather is inclement; or
   
   b. If the provider is only caring for school-age children before school hours.

**INTENT:** The Provider must provide opportunities for each child to participate in indoor and outdoor activities that are suited to the child’s individual interests, abilities, and developmental level.

**INSPECTION REPORT ITEM:** “Activities”

**COMPLIANCE CRITERIA:** Indoor and outdoor activities are suited to each child’s age and support the child’s growth and development.

**ASSESSMENT METHOD:** Verify through observation and discussion that activities are offered each day that are suitable for each child and consistent with the characteristics listed below.

**Note:** Daily activities must include active and quiet play. No activity should be overly stressful or cause undue physical or mental fatigue. Activities should promote the following:

- **Self-help skills** – Examples include giving toddlers, preschool, and school-age children the opportunity to choose and replace toys and activity materials with little or no assistance from the Provider. Children, who are developmentally ready, should serve and clean up after themselves at meal and snack time, and when possible, dress themselves.

- **Thinking skills** – Examples include opportunities to explore, problem-solve, imitate, use household activities/materials, sort and match various household items, set the table, prepare snacks/meals, and look at books and magazines.

- **Large and small muscle development** – Examples include participation in routine physical activities (such as running, hopping, jumping, manipulating with puzzles, stringing beads, and building with appropriate objects).
• **Communication skills** – Examples include encouraging children to ask and respond to questions that have more than one-word answers (such as “What does the Provider think will happen if...”), or “How does the Provider feel when...”), reading books and stories, singing, pretending, and dancing.

• **Creative skills** – Examples include drawing, painting, telling stories, pretending, dancing, and moving.

**Note:** For help in planning age-appropriate activities, the Provider may wish to refer to resource guide, “Developmental Characteristics”.

B. Screen Time Activities.

(1) Definitions. In this section, the following terms have the meanings indicated:

(a) “Interactive technology” means educational and age-appropriate technology, including programs, applications (apps), noncommercial television programming, videos, streaming media, and ebooks, that is designed to:

(i) Facilitate active and creative use of technology; and
(ii) Encourage social engagement with other children and adults.

(b) “Passive technology” means non-interactive television, videos, and streaming media.

(2) Limited use of appropriate interactive technology may support, but may not replace, creative play, physical activity, hands-on exploration, outdoor experiences, social interactions, and other developmentally appropriate learning activities for children 2 years old or older.

(3) Viewing Restrictions. Except as set forth in §B(4) of this regulation, a child in attendance who is:

(a) Younger than 2 years old may not be permitted to view any passive technology; and

(b) 2 years old or older may not be permitted to view more than 30 minutes of age-appropriate, educational passive technology per week.

(4) Exceptions.

(a) An occasional exception to the weekly passive technology viewing limit set forth in §B(3) of this regulation may be made for a special event or project, including a holiday or birthday celebration, or for educational content that is related to the family child care home’s curriculum.

(b) If an exception to the weekly passive technology viewing limit is made, a written record of the exception shall be made and retained on file that documents the:

(i) Nature and duration of the programming viewed; and
(ii) Reason for the exception.

(5) No child may be permitted to view any:

(a) Passive or interactive technology during a meal or a snack; or

(b) Media with brand placement or advertising for unhealthy or sugary food or beverages.
(6) The provider shall give the parent of each enrolled child a written screen time policy that addresses the use of passive and interactive technology during child care hours.

**INTENT:** Screen time is limited because it is important for infants and young children to:

- Have positive interactions with people and not sit in front of a screen that takes time away from social interaction with caregivers/teachers;
- Participate in activities that promote brain development such as talking, playing, singing, and reading together; and
- Participate in creative play, physical activity, hands-on exploration, outdoor experiences, social interactions, and other developmentally appropriate learning activities.

**INSPECTION REPORT ITEM:** “Activities”

**COMPLIANCE CRITERIA:**

- Children younger than 2 years old are not permitted to view any passive technology;
- Children 2 years old or older are not permitted to view more than 30 minutes of age-appropriate, educational passive technology per week;
- No child is permitted to view any passive or interactive technology during a meal or a snack;
- No child is permitted to view media with brand placement or advertising for unhealthy or sugary food or beverages;
- If an exception to the weekly passive technology viewing limit is made, a written record of the exception is on file; and
- The parent of each enrolled child received a written screen time policy that addresses the use of passive and interactive technology during child care hours.

**ASSESSMENT METHOD:**

- Observe to determine if a current, written activity schedule is posted, and
- The schedule include screen time periods that meet the compliance criteria listed above.
- Check the Provider’s file for written exceptions to screen time for special events or projects;
- Ask the Provider to produce the written screen time policy that addresses the use of passive and interactive technology during child care hours, and show evidence that the parents (of each child enrolled) received the screen time policy.

**Notes:**

- See "Developmental Characteristics", for information, and for some suggestions regarding toys and equipment appropriate to various age groups.
• A resource of activities designed to promote child development is included. See “Suggested Daily Activities”

.02 Materials and Equipment.

A. Activity materials shall:

(1) Be developmentally appropriate, in good repair, clean, nontoxic, and free from hazards including lead paint; and

**INTENT:** Each activity material or equipment item used by a child must be safe, clean, fully operational, and developmentally appropriate for that child.

**INSPECTION REPORT ITEM:** “Materials and Equipment”

**COMPLIANCE CRITERIA:** Each activity and equipment item is safe, suitable, clean, and in proper working condition.

**ASSESSMENT METHOD:**

• Observe the condition of activity materials and equipment items.

• If items have manufacturer labels, check these labels to determine if any item contains lead, lead paint, or another toxic substance.

**Note:**

• Hazards commonly found in activity materials and equipment include, but are not limited to:
  
  ➢ Sharp, pointed, or serrated edges
  ➢ Splinters
  ➢ Protruding nails, screws, bolts, boards, etc.
  ➢ Choking hazards such as small removable pieces
  ➢ Strings, cords, and hooks that can catch on a child’s clothing or hair

• Some materials and equipment in Montessori programs may appear to be hazardous, but are an important part of the Montessori curriculum.

(2) Support learning in:

  a) Language and literacy;
  
  b) Mathematical thinking;
  
  c) Scientific thinking;
  
  d) Social studies;
  
  e) Creative arts and dramatic play; and
  
  f) Gross Motor and small motor skills
INTENT: Activity materials must be available to encourage and stimulate child growth in physical, cognitive, emotional, and social domains.

INSPECTION REPORT ITEM: “Materials and Equipment”

COMPLIANCE CRITERIA: Available materials are suited to the activity areas specified in this regulation.

ASSESSMENT METHOD: Observe the activity materials available to each child to determine if they are suited to the listed activity areas.

Note: For further guidance see PowerPoint “Program Requirements – Curriculum Easy as ABC, 123”.

.03 Rest Periods.
Each child shall be provided periods of rest appropriate to the age, needs, and activities of the child.

INTENT: For proper development and growth, children must be given regular, adequate rest periods.

INSPECTION REPORT ITEM: “Rest Periods”

COMPLIANCE CRITERIA: Each child is provided appropriate rest periods.

ASSESSMENT METHOD: Observation of rest periods. If observation is not possible, discussion to determine the program’s rest schedules.

Note: There is no requirement that children must rest or nap for a specific length of time. The length of time that children nap or rest must be appropriate to their individual needs. However, based on general developmental characteristics, you may wish to use the following suggested nap/rest timeframes for planning your daily program.

- 0 – 2 years old - Morning and afternoon naps for 1 to 3 hours
- 2 – 4 years old - Afternoon nap for 1½ – 3 hours
- 5 – 6 years old - Afternoon rest – quiet activities for 30 minutes to one hour
Family Child Care Licensing Manual
(November 2016)

For use with

COMAR 13A.15 - Family Child Care
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COMAR 13A.15.10 CHILD SAFETY

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.01 Emergency Safety.
The provider or substitute shall:
A. Prepare and maintain a written emergency and disaster plan that:
   (1) Establishes procedures for:
      (a) Evacuating the home, including an evacuation route;
      (b) Relocating children to a designated safe site;
      (c) Sheltering in place in the event that evacuation is not feasible;
      (d) Notifying parents of children in care; and
      (e) Addressing the individual needs of children, including children with special needs;
   (2) Contains:
      (a) The name of, and contact information for, the local emergency operations center;
      (b) A list of local emergency services numbers; and
      (c) The radio station call sign and frequency for the local Emergency Alert System (EAS);
   (3) Is practiced with children at least:
      (a) Once per month for fire evacuation purposes;
      (b) Twice per year for other emergency and disaster situations;
      (c) If overnight care is provided, at least four times per year when children in overnight care are present; and is updated at least annually;

INTENT: In case of an emergency or a disaster, an approved emergency disaster plan must be in place with emergency escape route floor plans (See “OCC 1261 Emergency Escape Plan”) posted throughout the facility. Evacuation drills must occur regularly so that all staff and children can evacuate promptly and safely and proceed to an alternate sheltered location. It is strongly recommended that the Provider conduct fire drills from all the areas of the home that are used for child care so that the children can learn different evacuation routes.

INSPECTION REPORT ITEM: “Emergency Safety”

COMPLIANCE CRITERIA:

- Emergency disaster plan
  - The facility has an emergency disaster plan that has been approved by the training organization.
  - The plan specifies an alternate sheltered location.
  - The plan is practiced by staff and children at least twice a year.

- Fire evacuation plan
  - Fire evacuation escape route is posted.
A written log or similar document is maintained that records the date and time of each fire evacuation drill. See sample log to document fire evacuation drills, “Fire Drill Record”.

Fire evacuation drills occur at least monthly.

**ASSESSMENT METHOD:**

- Verify that the facility has an approved emergency plan that is signed by the training organization.
- Observe to determine if the emergency escape route is posted.
- Review Provider records for evidence that disaster and fire evacuation drills are practiced as required.
- Review Provider records for evidence of annual updates.

**B. Post conspicuously a copy of the emergency escape route floor plan:**

1. In or near the approved child care area; and
2. If overnight care is provided, in each room where a child in care is sleeping;

**INTENT:** An emergency escape route floor plan must be posted in or near the child care area to facilitate prompt and safe evacuation in the event of an emergency.

**INSPECTION REPORT ITEM:** “Emergency Safety”

**COMPLIANCE CRITERIA:**

- An “Emergency Escape Plan” (OCC 1261) is posted where it is easily and clearly visible from within the approved child care area.
- If overnight care is provided, the escape plan is posted in each room where a child in care sleeps.

**ASSESSMENT METHOD:** Observation to determine if and where the “Emergency Escape Plan” is posted.

**C. Regularly orient children, who are old enough to understand, in procedures to be used in the event of a fire or other emergency requiring escape from the home;**

**INTENT:** The Provider must teach proper evacuation procedures to the children so that they can respond promptly and appropriately in the event of an emergency.

**INSPECTION REPORT ITEM:** “Emergency Safety”
COMPLIANCE CRITERIA: The Provider regularly reviews evacuation procedures with the older children.

ASSESSMENT METHOD: Discussion to determine if, how, and how often the Provider reviews evacuation procedures with the children.

D. Train each substitute and, if applicable, the additional adult on the contents of the written emergency and disaster plan required at §B of this regulation;

Note: The Provider must show documentation of the required training. The “Substitute/Additional Adult/Volunteer Orientation Verification” form is used to document the Substitute and, if applicable, the Additional Adult emergency and disaster training.

E. In the event of a declared emergency, be prepared to respond as directed by the local emergency management agency through sources of public information;

F. During an emergency evacuation or practice, take attendance records out of the home and verify the presence of each child currently in attendance;

INTENT: The Provider must be able to verify after a home evacuation that all children in attendance are present and accounted for.

INSPECTION REPORT ITEM: “Emergency Safety”

COMPLIANCE CRITERIA: During each home evacuation, the Provider brings along the current child attendance record.

ASSESSMENT METHOD: Observe an evacuation to determine if attendance records are brought along. If observation of an evacuation is not possible, interview the Provider as necessary to determine if the attendance records are brought along.

G. Instruct children in the use of the 9-1-1 telephone number to summon help in an emergency; and

INTENT: Children who are able to self-direct and are ready to learn to use a telephone (landline or cell) must be instructed how to call for emergency assistance.

INSPECTION REPORT ITEM: “Emergency Safety”

COMPLIANCE CRITERIA: Older children are taught how to call 911 and request assistance.

ASSESSMENT METHOD: If possible, observation of instruction in 911 calling. Otherwise, discussion to determine if older children are instructed in 911 procedures.
H. Meet the following requirements for first aid supplies:
   (1) Maintain first aid supplies as the office requires in a location that is readily accessible to the areas of the home approved for child care;
   (2) Store first aid supplies in a manner that makes them inaccessible to children in care; and
   (3) Bring the first aid supplies along on any activity away from the family child care home.

   **INTENT:** At all times, appropriate and adequate first aid supplies must be kept so that they are quickly accessible for use with the children but inaccessible to the children in care.

   **INSPECTION REPORT ITEM:** “Emergency Safety”

   **COMPLIANCE CRITERIA:**

   - The Provider maintains a portable first aid kit that contains only the items that are approved by the Office (see “First Aid Kits – Required Contents”)
     All items in the kit are clean, organized, and usable;
   - The kit is always kept close to where the children are (at the home or off-site); and
   - The kit is not accessible to any child in care.

   **ASSESSMENT METHOD:** At the home, observation of where the kit is stored and of its contents. Discussion to determine if the kit is brought along on off-site activities.

   **Note:** If children in care are transported in the Provider’s vehicle, it is strongly recommended that a second first aid kit is acquired and kept in the vehicle. This will allow the provider to always have first aid supplies on hand, and won’t have to remember to bring the kit back inside upon return to the home.

.02 Potentially Hazardous Items.
The provider shall properly store, and keep inaccessible to the children in care, all potentially harmful items, including, but not limited to, knives, sharp tools, firearms, matches, alcoholic beverages, petroleum, flammable products, cleaning agents, and poisonous products.

   **INTENT:** The Provider must protect children from accidental harm by keeping potentially dangerous items away from them.

   **INSPECTION REPORT ITEM:** “Potentially Hazardous Items”
COMPLIANCE CRITERIA:

- All knives and sharp implements are out of the reach of children.
- All firearms, if present in the Provider’s home, are unloaded and locked in a manner that makes them inaccessible to children and complies with applicable State or local law and ordinances. Ammunition is stored in a separate locked container and apart from firearms.
- Non-prescription and prescription medications and alcoholic beverages are stored out of the reach of children. It is recommended that medication be kept in a locked container.
- Matches, petroleum and flammable products, cleaning agents and poisonous products are stored away from food, in original labeled containers, and out of the reach of children.

ASSESSMENT METHOD: Observation of where and how potentially hazardous items are stored.

Note: Questions related to the proper storage of potentially flammable products should be referred to the local fire authority.

.03 Outdoor Safety.

A. The provider or substitute may not allow a child to play on climbing equipment from which the child could fall 7 feet or more to the ground.

INTENT: Child participation in an activity that may result in a fall to the ground of 7 or more feet is prohibited because the fall is likely to cause serious injury or death.

INSPECTION REPORT ITEM: “Outdoor Safety”

COMPLIANCE CRITERIA: No activity is permitted that may result in a fall to the ground of 7 or more feet.

ASSESSMENT METHOD:

- Measurement of potential fall distances.
- Observation during activity. If observation is not possible, discussion with the provider or substitute to determine how the compliance criteria are met.

Note: See resource guides, “Playground Safety Tips”, or “Playground and Water Safety Guidelines”.
B. During an outdoor activity, the provider or substitute may not allow a child to:
   (1) Use unsafe activity equipment;
   (2) Use activity equipment in an unsafe manner; or
   (3) Wear a clothing item or accessory that may pose a hazard to the child while engaged in the activity.

**INTENT:** The Provider must ensure that outdoor recreation equipment is safe and used appropriately, and that no child is wearing anything that might be dangerous to the child during the activity.

**INSPECTION REPORT ITEM:** “Outdoor Safety”

**COMPLIANCE CRITERIA:**

- All outdoor activity equipment is:
  - Safe (suitable for use by children, in good physical condition, free of sharp edges or points, installed properly if installation is required)
  - Used as intended by the manufacturer.

- Each child is dressed safely for each activity with no item or accessory that may pose a hazard to the child while engaged in the activity.

**ASSESSMENT METHOD:**

- Inspection of activity equipment.

- Observation of how the equipment is being used and how children are dressed for the activity. If observation is not possible, discussion with the Provider to determine how the compliance criteria are met.

C. The provider shall ensure that children use suitable protective gear when engaged in an activity for which protective gear is required by law.

**INTENT:** If the law requires children to use protective gear during certain activities, the Provider must make sure they do so.

**INSPECTION REPORT ITEM:** “Outdoor Safety”

**COMPLIANCE CRITERIA:** As applicable, children use proper protective gear (for example, wear bicycle helmets).

**ASSESSMENT METHOD:** Observation to see if protective gear is used. If observation is not possible, discussion with the Provider to determine how compliance criteria are met.
Note: Maryland’s “bicycle helmet law” is set forth at §21-1207 of the Transportation Article, Annotated Code of Maryland. It became effective on October 1, 1995.

- The law applies to any child under 16 years old who operates (or rides as a passenger on) a bicycle “on any highway, bicycle way, or other property that is open to the public or used by the public for pedestrian or vehicular traffic.”
- The child must wear a helmet that meets or exceeds ANSI, ASTM, or Snell Memorial Foundation standards for protective bicycle headgear.
- Violators are issued a warning by police. No fines or other legal penalties are imposed.

D. Trampolines. The provider or substitute:
(1) May not allow a child in care to use a trampoline; and
(2) Shall make a trampoline located on the premises of the home inaccessible to children in care.

INTENT: Trampoline use is a common cause of serious injury to children. If there is a trampoline at the home, children must be kept from using it or gaining access to it.

INSPECTION REPORT ITEM: “Outdoor Safety”

COMPLIANCE CRITERIA: No child is permitted to use the trampoline. No child can gain access to the trampoline.

ASSESSMENT METHOD: Observation of where and how trampoline is stored.

.04 Water Safety.
A. A provider or substitute may permit children in care to use only swimming facilities that:
(1) Are subject to State or local standards of health, sanitation, and safety; and
(2) Meet those standards.

INTENT: A body of water may be used by children only if it is approved for swimming by the appropriate local or State government office.

INSPECTION REPORT ITEM: “Water Safety”

COMPLIANCE CRITERIA: The only swimming facilities used by children are those that the Provider have verified as being approved.

ASSESSMENT METHOD: Review of approval documentation, if available. Otherwise, discussion with the Provider to determine if and how verification of approval took place.
B. A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool that does not have an operable circulation system approved by the local health department.

**INTENT:** Stagnant (uncirculated) pool water is a potential health hazard because it contaminates quickly. Therefore, children may only use pools that have an approved and working circulation system.

**INSPECTION REPORT ITEM:** “Water Safety”

**COMPLIANCE CRITERIA:**

- The pool has an approved, functioning circulation system, and
- The pool water does not appear to be contaminated.

**ASSESSMENT METHOD:** If a pool is used by children in care:

- Observation to determine if it has an operable circulation system; and
- Review of documentation showing approval of the circulation system by the local health department.

**Reminder:**

- If the Provider have a pool, the Provider must ensure that it meets all applicable State or local health department requirements.
- The Provider must have appropriate procedures for supervision of the children during water play, including how to accommodate children who are napping, toileting, or not engaged in water play.
- It is strongly recommended that:
  - Non-swimming children be allowed in water only if it is below their knees, and
  - One-on-one supervision be given to each child younger than 2 years during a water activity.

.05 Transportation Safety.

If children are transported in a vehicle while in care, the provider or substitute shall ensure that, as specified by Maryland law:

A. Each child in care is separately secured in a child car seat or seat belt; and
B. Each child car seat or seat belt is appropriate for the age and weight of the child using it.
INTENT: Each child transported must be in a car seat or seat belt that is appropriate for the child’s age and weight, as specified by Maryland law.

INSPECTION REPORT ITEM: “Transportation Safety”

COMPLIANCE CRITERIA: The vehicle used to transport children is equipped with seat belts and age-appropriate car seats, as required by Maryland law.

ASSESSMENT METHOD: Observation of the vehicle(s) used for transportation to ensure that seat belts and safety seats are present as required.

Notes:

- When transporting a child by private vehicle, the Provider must comply with the following requirements of Maryland’s Transportation Article, §22-412.2:
  
  - The child must be secured in a child safety seat if the child:
    - Is younger than 6 years old, regardless of the child’s weight; or
    - Weighs less than 40 pounds, regardless of the child’s age.
  
  - Child safety seats must be installed in accordance with the seat manufacturer’s instructions.
  
  - The child is considered “secured” only if the safety seat or seat belt is used in accordance with the instructions of the safety seat manufacturer or the vehicle manufacturer.
  
  - A safety seat or seat belt may not be used to secure more than one child at a time.

- It is recommended that the Provider do not purchase child safety seats at yard sales, garage sales, flea markets, etc., because the Provider will probably have no way of determining if the seats function properly, or have been damaged in some way that would make them unsafe for use.

- For information about choosing and using child safety seats, refer to “Maryland Kids in Safety Seats (K.I.S.S.)”.

.06 Rest Time Safety.
A. Unless specified otherwise in writing by the child's physician, a child who:

   1. Cannot roll over without assistance shall be placed for sleep on the child's back; or
   2. Is younger than 12 months old but can roll over unassisted shall be placed for sleep on the child's back, but may be allowed to adopt whatever position the child prefers for sleep.

B. Unless the need for a positioning device that restricts a child's movement while the child is resting is specified in writing by the child's physician, an object or device, including,
but not limited to, a strap, wedge, or roll, that restricts movement may not be used with a child in a crib, portable crib, playpen, cot, bed, mat, or other rest furnishing.

**INTENT:** (A – B) A sleeping child is a child whose safety and well-being must be actively and personally monitored. A sleeping child under the age of 12 months is susceptible to SIDS and the Provider must take certain steps that have been shown to reduce the risk of SIDS.

**INSPECTION REPORT ITEM:** “Rest Time Safety”

**COMPLIANCE CRITERIA:** The following are criteria for ensuring the safety of children during rest time:

- The provider or substitute is awake, alert, and inside the home.

- At appropriate intervals (at least every 15 minutes for a child younger than 2 years old) the Provider visually checks each child who is or may be asleep to assess the child’s safety, breathing, and physical comfort.

- Unless specified otherwise, in writing, by the child’s physician,
  - Children younger than 12 months are placed on their backs during sleep,
  - Children who cannot roll over unassisted are placed on their backs during sleep.
  - Positioning devices are not used for a child of any age during rest time.

- Gates to stairways are in place and properly secured.

**ASSESSMENT METHOD:**

- Determine if any children have physician instructions regarding sleeping arrangements.

- Observation of:
  - How and when the Provider monitors children who are or may be sleeping,
  - The sleeping position into which the Provider placed children who are less than 12 months old or who cannot roll over unassisted, and
  - The use of positioning devices, if applicable.
If observation is not possible, discussion with the Provider or substitute (or additional adult if applicable) to determine how:

- Sleeping children are supervised,
- Children under the age of 12 months are placed for sleep,
- Children who cannot roll over unassisted are placed for sleep, and
- Positioning devices are used, if applicable.
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COMAR 13A.15.11 HEALTH

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.01 Child Comfort and Welfare.
The provider or substitute shall:

A. Dress a child appropriately, both indoors and outdoors, for the temperature of the environment and the activity of the child;

B. During an indoor or outdoor activity:
   (1) Monitor each child for signs of discomfort due to over-activity, temperature or weather conditions, or other environmental factors; and
   (2) If a child is experiencing discomfort, take appropriate steps to alleviate the discomfort; and

**INTENT:** The Provider must not allow a child to engage in an activity for which the child is not safely or comfortably dressed.

**INSPECTION REPORT ITEM:** “Child Comfort and Welfare”

**COMPLIANCE CRITERIA:**

- Each child is dressed appropriately for program activities.
- No child exhibits signs of distress from extremes in temperature, such as shivering, displaying goose bumps, excessive sweating, or listlessness.

**ASSESSMENT METHOD:** If possible, observation of how the children are dressed during activities.

**Note:** It is the responsibility of the parents to make sure their children have proper clothing. The Provider is not required to furnish clothing items to children in care, although may do so if desired. However, it is the Provider’s responsibility to ensure the health, safety, and welfare of each child at all times while the child is in care. This includes ensuring the child’s physical comfort with respect to temperature and activity. If a child appears at the program without proper or adequate clothing, the Provider should:
  - Arrange some alternate activity until the child has obtained the proper clothing,
  - Discuss the matter of proper clothing with the child’s parent at the earliest opportunity, and
  - Consider specifying clothing responsibilities in the written agreement with the parent.

C. Ensure that each child has adequate time for meals and snacks.
**INTENT:** Each child needs enough time to eat at a pace that is comfortable for the child.

**INSPECTION REPORT ITEM:** “Child Comfort and Welfare”

**COMPLIANCE CRITERIA:** Each child is allowed to finish meals and snacks at a comfortable pace.

**ASSESSMENT METHOD:** If possible, observation to determine if any child appears rushed or uncomfortable.

**.02 Exclusion for Acute Illness.**

A. The provider or substitute shall:
   (1) Monitor children for signs and symptoms of acute illness; and
   (2) Notify immediately a child's parent or other person designated on the child's emergency card upon observing a sign or symptom of acute illness.

**INTENT:** To prevent the spread of illness and to protect all the children in the Provider’s care, the Provider must observe children for any sign of illness, and notify their parents if a sign of illness appears.

**INSPECTION REPORT ITEM:** “Exclusion for Acute Illness”

**COMPLIANCE CRITERIA:**

- Each child is monitored throughout the day for signs of illness.
- If a child shows any signs of acute illness, the Provider promptly notifies the child’s parent or other authorized adult.

**ASSESSMENT METHOD:** Discussion to determine if and how:

- Children are monitored for illness, and
- A parent is notified when a child appears ill.

B. The provider or substitute may not allow a child to enter or remain in care if the child is exhibiting symptoms of acute illness such as, but not limited to:
   (1) Vomiting;
   (2) Fever;
   (3) Seizures;
   (4) Severe pain; or
   (5) Diarrhea.
**INTENT:** An acutely ill child may (and most likely will) be a source of contagion for other children in care. Therefore, the Provider may not care for sick children. A child who gets sick in the Provider’s care must not be allowed to remain, and, if possible, should be isolated while waiting for the child’s parent to remove him or her.

**INSPECTION REPORT ITEM:** “Exclusion for Acute Illness”

**COMPLIANCE CRITERIA:**

- There are no acutely ill children in attendance, or
- If in attendance, an acutely ill child is separated from the other children and is waiting to be picked by the child’s parent/guardian or other authorized adult.

**ASSESSMENT METHOD:** Observation to determine if any acutely ill children are present.

**Notes:**

- For help in identifying signs of acute illness, see “Signs of Illness in Children.”
- A history of seizures that are not related to acute illness is not grounds for exclusion from care.
- It is recommended that the Provider inform parents at the time children are enrolled, and again at the time they are first admitted, of the requirement to exclude children for acute illness. The Provider may wish to consider including a statement to that effect in the written agreement required.

.03 Infectious and Communicable Diseases.

A provider or substitute may not knowingly care for a child who has a serious transmissible infection or communicable disease during the period of exclusion for that infection or disease shown on a list provided by the office.

**INTENT:** The intent of this regulation is to protect the health and well-being of children receiving out-of-home care by preventing the transmission of communicable diseases. A communicable disease is reportable, and is any one of a group of highly infectious or contagious illnesses classified by the Maryland Department of Health and Mental Hygiene DHMH) as serious threats to public health that must be identified, isolated, and treated immediately.

**INSPECTION REPORT ITEM:** “Infectious and Communicable Diseases”

**COMPLIANCE CRITERIA:** No child in the contagious stage of a serious transmissible infection or communicable disease is allowed to attend the child care program.

**ASSESSMENT METHOD:**
• Observation to determine if any child with signs of a serious transmissible infection or communicable disease is in attendance.
• Discussion to determine if and how a child known or believed to be in the communicable stage of a serious infection or disease is kept out of care.
• Review of program records to determine if a copy of the DHMH “Communicable Disease Summary” is present for reference.

Notes:

• Under the Americans with Disabilities Act (ADA) of 1990, persons with certain diseases (e.g., HIV/AIDS) are considered to have disability and may not be denied admission to, or continuation in, care solely on the basis of that disability. For more information about ADA requirements as they may apply to the Provider’s program, refer to “Child Care and the ADA”.

• Due to the confidential nature of certain communicable diseases such as HIV/AIDS, the parent of a child who has one of those diseases is not required to disclose that information to the Provider. The child’s physician is not required to disclose it either. Therefore, the Provider should always take appropriate precautions whenever the Provider has contact with blood or other bodily fluids or excretions, or with items that have been contaminated with such substances. Treat every child as if he or she may be HIV-positive or be a carrier of some other communicable disease – use universal precautions. (See “General Sanitation Guidelines”, for recommended infection control precautions and measures.)

.04 Medication Administration and Storage.

A. Medication Administration.

(1) Medication, whether prescription or non-prescription, may not be administered to a child in care unless:

(a) Parental permission to administer the medication is documented on a completed, signed, and dated medication authorization form, provided by the office, that is received by the provider or substitute before the medication is administered; and

(b) A licensed health practitioner has approved the administration of the medication and the medication dosage.

(2) A prescription medication may not be administered to a child unless at least one dose of the medication has been given to the child at home.

INTENT: Prescription or non-prescription medication may be administered to a child only if there is prior written, signed permission from the child’s parent and a licensed health practitioner has approved the administration of the medication and the medication dosage. Also, the parent must have given the first dose of the medication to the child to be sure that the child will not have an adverse reaction.
INSPECTION REPORT ITEM: “Medication Administration and Storage”

COMPLIANCE CRITERIA:

- Before giving medication to a child, the facility has on file for that child a completed, signed “Medication Authorization Form”, OCC form 1216, or an equivalent document which contains all information as required on the OCC form 1216.

- Each prescription or non-prescription medication:
  - Is properly labeled by a physician or pharmacy and is current, or
  - Is properly labeled by the manufacturer (non-prescription medication) and
  - Was initially given to the child at home.

ASSESSMENT METHOD:

- For each child receiving medication, a review of the child’s file to determine if a “Medication Authorization Form” (or an equivalent document) is present and when it was received.

- For each child receiving prescription or non-prescription medication:
  - Examination of the medication to determine if the medication is properly labeled and not expired.
  - Review of the child’s file for evidence of initial administration by the parent.

Notes:

- Nonprescription medication is over-the-counter medication that is prescribed by a physician to be administered to a child. “Over-the-counter Medication” is medication products found on store shelves that may be purchased by the general public without a prescription from a physician. For example, a physician may prescribe “Tylenol” for a child which is over-the-counter medication purchased by the general public.

- If the prescription medication is properly labeled, the Medication Administration form does not have to be completed or signed by the physician. The information from the medication label could be noted on the medication administration form in the “Prescribers” section, with the parent/guardian completing the “Parent/Guardian Authorization” portion of the form. Or, the provider could create a form to note the prescription information and parental authorization.
• While there is a place for a child’s picture on the Medication Administration form, the child’s picture is not required.

• A provider may, as a general program policy, choose not to administer medication to children in care. However, if a child in the Provider’s care has a medical condition (for example, diabetes) that is considered to be a disability as defined by the Americans with Disabilities Act (ADA) and requires the use of medication during program hours, the Provider must ensure that the child receives that medication. (The medication administration course is required even if the provider chooses not to administer medication to children in care, or has no children in care who need medication.)

• The issue of medication administration should be discussed with the parent at the time of a child’s enrollment. The Provider should consider including a medication administration policy in the written agreement that must be establish with parents.

(3) If medication is by prescription, it shall be labeled by the pharmacy or physician with:

(a) The child’s name;
(b) The date of the prescription;
(c) The name of the medication;
(d) The medication dosage;
(e) The administration schedule;
(f) The administration route;
(g) If applicable, special instructions, such as “take with food”; and
(h) The duration of the prescription; and
(i) An expiration date that states when the medication is no longer useable.

**INTENT:** The Provider may administer medication to a child only if there is prior written, signed permission from the parent stating which medication is to be given, how, and when; therefore, the medication must be properly labeled and not expired.

**INSPECTION REPORT ITEM:** “Medication Administration and Storage”

**COMPLIANCE CRITERIA:** Each prescription medication is properly labeled by a physician or pharmacy and is current.

**ASSESSMENT METHOD:** For each child receiving prescription medication, examination of the medication to determine if the medication is properly labeled and current.
B. Topical Applications. A diaper rash product, sunscreen, or insect repellent supplied by a child's parent may be applied without prior approval of a licensed health practitioner.

Notes:

- Diaper rash products, sunscreen, and insect repellent are considered “Basic Care Products” not nonprescription medications. They are referred to as “Topical Applications” because they are applied on the child’s skin and not taken internally. An individual does not need to have taken “Medication Administration” training to apply basic care/topical products on a child.

- A parent may not give a provider a “home-made” product to use on the child. The product must be clearly labeled with a product name and instruction for use.

C. Medication shall be administered according to the instructions on the label of the medication container or a licensed health practitioner's written instructions, whichever are more recently dated.

Intent: Because a child’s medication dosage or schedule may change, the medication must be given according to the most recent written instructions.

Inspection Report Item: “Medication Administration and Storage”

Compliance Criteria: Each medication is given according to current instructions.

Assessment Method: Observation to determine if medication is given as instruction. If observation is not possible, a review of the child’s file and medication to determine if the medication is being given according to written instructions.

D. Recording Requirements.

1. Each administration of a prescription or non-prescription medication to a child, including self-administration of a medication by the child, shall be noted in the child's record.

Intent: Each time medication is given, a record must be made of what was given, who gave it, and when it was given. The Provider, trained in medication administration, must complete the log attached to the “Medication Authorization Form”, OCC 1216.

Inspection Report Item: “Medication Administration and Storage”

Compliance Criteria: For each child receiving medication, a complete entry is made in the child’s file each time medication is given.
ASSESSMENT METHOD: Review of the child’s file to determine if complete entries have been made.

**Note:** The child care provider must document each instance of a child self-administering medication. Using the Medication Administration Log, document the date, time and reason the medication was administered.

(2) **Application** of a diaper rash product, sunscreen, or insect repellent supplied by a child's parent shall be noted in the child’s record.

**Notes:**
- A topical basic care product brought in by the parent does not have to be recorded each time it is applied on the child’s body. The provider may record (once) in the child’s record, the fact that topical basic care products (noting the name of the products) are being applied daily on the child. If the product(s) change, note the new product(s) in the child’s record.

- The “Medication Administration Log” should not be used for this purpose.

- Any method most convenient for the child care provider to record the application of topical products in a child’s record is acceptable. The provider could develop a “Topical Application Log”.

E. **Medication Storage.**

(1) Each medication shall be:

(a) Labeled with the child's name, the dosage, and the expiration date;

(b) Stored as directed by the manufacturer, the dispensing pharmacy, or the prescribing physician; and

(c) Discarded according to guidelines of the Office of National Drug Control Policy or the U.S. Environmental Protection Agency, or returned to the child's parent upon expiration or discontinuation.

(2) All medications shall be stored to make them inaccessible to children in care but readily accessible to the provider, substitute, or additional adult.

**INTENT:** All medications are considered to be potentially hazardous items and must be made inaccessible to children. They must also be stored according to physician, pharmacist, or manufacturer instructions, as appropriate, to preserve their usefulness.

**INSPECTION REPORT ITEM:** “Medication Administration and Storage”
COMPLIANCE CRITERIA:

- The Provider store all medications out of the reach of children, preferably in a locked container.
- Each medication is in its original container, which is labeled with the correct child’s name.
- There are no expired medications present.

ASSESSMENT METHOD: Observation to determine if all medications:

- Are stored and labeled properly, and
- Are not yet expired.

F. Self-Administration of Medication.

*Note:* The intent of this regulation is to allow school-age children who use inhalers and epi-pens to self-carry and self-administer these medications. No other medications may be self-administered.

(1) Before a child may self-administer medication while in care, a provider shall:

(a) Have a written order from the child’s physician and the written request of the child’s parent for the child’s self-administration of medication;

*Note:* The Asthma Action Plan and/or Allergy Action Plan may be used in lieu of the OCC 1216 Medication Administration Authorization Form for children who will self-carry/self-administer medication for asthma or allergies.

(b) In consultation with the child’s parent, establish a written procedure for self-administration of medication by the child based on the physician’s written order; and

(c) Authorize the child to self-administer medication.

*Note:* Once the parent and provider develop the procedures, the provider shall (must) authorize the child to self-administer the medication.

(2) Revocation of Authorization to Self-Administer.

(a) A provider may revoke a child’s authorization to self-administer medication if the child fails to follow the written procedure required by §F(1)(b) of this regulation.
(b) Immediately upon revoking the child’s authorization to self-administer medication, the provider shall notify the child’s parent of that revocation.

(c) The provider shall document the revocation of authorization to self-administer and the notification to the child’s parent in the child’s record.

Note: If a child does not follow the procedures appropriately, a provider may revoke the authorization and must note the reasons for the revocation in the child’s record. If authorization is revoked, the provider must take responsibility for having the medication administered to the child.

G. Effective January 1, 2016, medication may be administered to a child in care only by an individual who has completed approved medication training, unless:

1. The individual is a registered nurse, licensed practical nurse, or medication technician certified by the Maryland Board of Nursing to administer medication to children in care; or

2. Responsibility for administering medication to children in care has been delegated to the individual by a delegating nurse in accordance with COMAR 10.27.11.

Note: The Provider is required to take the Medication Administration course prior to becoming registered, thus being the only person who may administer medication to a child in care. However, if an emergency arises while a substitute is caring for the children, the substitute may administer emergency medication to save a child’s life.

.05 Smoking.

A. If a resident of the family child care home smokes cigarettes, cigars, or pipes, the provider shall make this known in advance to parents who are considering placing their children in the provider's care.

INTENT: Second-hand smoke has been identified as a potential health hazard. Smoking may also result in accidental fires and burn injuries. Parents have a right to know if a child care program they may wish to use provides a healthy and safe environment for their children.

INSPECTION REPORT ITEM: “Smoking”

COMPLIANCE CRITERIA: If smoking occurs in the home, the Provider have made this known to each parent at or prior to the child’s enrollment.

ASSESSMENT METHOD: Through discussion, determine what procedure the Provider use to notify parents about smoking. If notification is documented, verify by reviewing the documentation.

Notes:
• It is recommended that the written agreement include a notification statement about any smoking that occurs in the home.
• As an alternative, the Provider may wish to consider developing a separate smoking notification sheet that would be signed by parents and kept on file.

B. Smoking Restrictions.
   (1) A provider and any other individual who has child care responsibilities may not smoke in the immediate presence of a child in care.
   (2) During the family child care home’s approved hours of operation, if an enrolled child is or will be on the premises, the provider may not smoke or permit smoking anywhere inside the home.

**INTENT:** Inhalation of second-hand smoke is a health hazard for children. Smoking in the presence of children also presents a risk to them of accidental burns.

**INSPECTION REPORT ITEM:** “Smoking”

**COMPLIANCE CRITERIA:**

• If a person with child care responsibilities smokes, the person smokes only where it does not present a second-hand smoke or burning risk to any child in care.

• There is no smoking inside the home on any day that a child is or will be there.

**ASSESSMENT METHOD:** If smoking occurs, observation of where and when it occurs. If observation is not possible, discussion with the Provider to determine where and when smoking occurs.

**Note:** Even if smoking occurs only where it will present no smoke-related risk to a child, the smoker who has child care responsibilities must, while smoking:

• Continue to provide appropriate care and supervision at all times, and

• Be able to intervene immediately in the event of an emergency involving a child.

C. The provider or substitute shall ensure that all cigarettes, cigars, pipes, ashes, and butts are kept out of the reach of the children in care.

**INTENT:** If tobacco products (used or unused) are in reach, they may be ingested by younger children and cause choking or illness. Older children may be tempted to take them for their own personal use later on. Therefore, tobacco products must be made inaccessible to all children in care.
INSPECTION REPORT ITEM: “Smoking”

COMPLIANCE CRITERIA: If any tobacco product (used or unused) is present, it cannot be reached by any child in care.

ASSESSMENT METHOD: Observation to determine if any tobacco product (used or unused) is accessible to any child in care.

.06 Consumption of Alcohol and Drugs.
A provider, substitute, or additional adult may not consume an alcoholic beverage or an illegal or nonprescribed controlled dangerous substance while:

A. Present at the family child care home during the home's approved hours of operation; or

B. Providing or assisting with the care of children on or away from the premises of the family child care home.

INTENT: The Provider is responsible for ensuring the health, safety, and welfare of each child in attendance. Consumption of alcohol or drugs is likely to impair a person's ability to provide safe and appropriate child care. Consumption of any such substance by any person on the child care home premises during the operating hours, or during any off-site program activity, is strictly prohibited.

INSPECTION REPORT ITEM: “Consumption of Alcohol and Drugs”

COMPLIANCE CRITERIA: There is no consumption of alcohol or drugs by any person during the hours of operation, whether on facility premises or off-site during a program activity.

ASSESSMENT METHOD: Observe for any sign that may indicate the consumption of alcohol or drugs during operating hours. Interview facility staff to obtain additional information, as needed.
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COMAR 13A.15.12 NUTRITION

.01 Nutrition and Food Service.................................................................1
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.01 Nutrition and Food Served.

A. Food and beverages that are furnished by a provider for meals or snacks, or both, shall comply with the guidelines of the Child and Adult Care Food Program of the U.S. Department of Agriculture, as indicated on a chart supplied by the office.

**INTENT:** Each child in care needs adequate nutrition for proper growth and development. To help ensure that this occurs, all meals and snacks furnished by the Provider must meet specified nutritional guidelines for the child's age.

**INSPECTION REPORT ITEM:** “Nutrition and Food Served”

**COMPLIANCE CRITERIA:** Each meal and snack furnished by the Provider to a child meets the guidelines of the Child and Adult Care Food Program (CACFP) for the child's age.

**ASSESSMENT METHOD:**

- Observe the items and amounts served at mealtime or snack time to determine if they meet CACFP guidelines.
- If observation is not possible, review the facility's current menu and interview the Provider to determine the contents of meals and snacks served.

**Note:** Refer to the “USDA/CACFP Child Care Meal Pattern Guidelines”, for meal and snack portion sizes of various food groups recommended by the CACFP for various age groups.

B. For children in care, the provider shall furnish:
   (1) All beverages, including beverages for meals and snacks; and
   (2) Milk with all meals.

C. A beverage furnished by the provider may not contain an added sweetener or caffeine, except for:
   (1) Infant formula: or
   (2) A beverage prescribed for a child by a health care provider.

**Note:** This regulation “C” does not apply to beverages supplied by parents.

D. If the child is:
   (1) Younger than 2 years old, milk furnished to the child shall be supplied or approved by the child’s parent; or
   (2) 2 years old or older, milk furnished to the child by the provider shall be 1% fat milk or nonfat milk, unless otherwise ordered by a health care provider or requested by the child’s parent.
E. The provider may arrange with the child’s parent to furnish milk of a type that is different from the milk ordinarily furnished by the provider.

F. Except during approved hours of overnight care, a provider shall serve meals and snacks at intervals of not more than 3 hours according to the following schedule:

<table>
<thead>
<tr>
<th>If a child is at providers home for:</th>
<th>The child shall receive at least:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 4 consecutive hours</td>
<td>1 snack</td>
</tr>
<tr>
<td>4 to 7 consecutive hours</td>
<td>1 meal and 1 snack</td>
</tr>
<tr>
<td>7 to 11 consecutive hours</td>
<td>1 meal and 2 snacks or 2 meals and 1 snack</td>
</tr>
<tr>
<td>11 to 14 consecutive hours</td>
<td>2 meals and 2 snacks or 3 meals and 1 snack</td>
</tr>
</tbody>
</table>

INTENT: Growing children burn a lot of energy, so their energy levels must constantly be restored through frequent meals and snacks.

INSPECTION REPORT ITEM: "Nutrition and Food Served"

COMPLIANCE CRITERIA: Each child receives the appropriate number of meal(s) and/or snack(s) based on the length of a child’s daily attendance.

ASSESSMENT METHOD: Review child attendance records to determine how long children are in care daily, and cross-reference those records with the Provider’s meal/snack schedule to determine if children are getting the appropriate number of meals and/or snacks.

G. If a provider chooses not to provide meals, the provider shall make arrangements with the parent of each child to provide food for meals.

INTENT: While a child is in attendance, the Provider is responsible for the child’s appropriate nutrition. Part of this responsibility is making sure that the child receives foods that meet USDA/CACFP (United States Department of Agriculture/Child and Adult Care Food Program) guidelines. This responsibility is met by either providing the foods that meet the USDA/CACFP guidelines, or encouraging the parent to provide those meals.

INSPECTION REPORT ITEM: "Nutrition and Food Served"

COMPLIANCE CRITERIA: For each child, meals are provided by either the Provider or the parent.
ASSESSMENT METHOD: If the facility does not provide meals:

- Interview Provider to determine if and how children are fed while in attendance, and

- If available, review Provider contracts or service agreements with parents to determine if arrangements have been made for parents to provide meals.

.02 Food Storage and Cleanliness.
The provider or substitute shall:

A. Transport, store, prepare, display, and serve food in a safe, sanitary, and healthful manner;

INTENT: Food items must be protected from spoilage and contamination at all times.

INSPECTION REPORT ITEM: “Food Storage and Cleanliness”

COMPLIANCE CRITERIA: Child care food items are stored, prepared, and handled in a way that prevents them from spoilage and contamination.

ASSESSMENT METHOD: Observation of where and how food is stored, prepared, and handled.

Notes:

- If child care food is stored among the family's food, then all areas of food storage will be inspected. If the child care food is stored separately, and the area is labeled, then only that area should be inspected.

- Food should not be stored under kitchen or bathroom drain lines.

- Animals are restricted from food storage areas and from food preparation/service surfaces.

- Dry foods, such as sugar, flour, cereals, and crackers, must be stored in a manner that ensures that they are protected from insects and rodents. If the original package cannot be resealed tightly once it has been opened, the contents must be transferred to a food storage container or plastic food storage bag that can be tightly closed. The container or bag must then be labeled as to contents. As an alternative, the opened original package itself may be placed into a food storage container or bag that can be tightly closed.

- Reusable food storage containers must be easy to clean and sanitize.
B. Refrigerate perishable foods such as meat, milk, and dairy products at or below 40°F; and

**INTENT:** Food items must be maintained at safe temperatures to prevent growth of disease-producing organisms.

**INSPECTION REPORT ITEMS:** “Food Storage and Cleanliness”

**INSPECTION CRITERIA:**

- When not in use, all perishable foods are refrigerated, and
- The refrigerator’s temperature is at or below 40°F.

**ASSESSMENT METHOD:** Observation to determine:

- Where perishable items are stored, and
- Refrigerator temperature.

**Notes:**

- Food items stored in the refrigerator must be covered or contained to protect them from contamination.
- If the Provider’s refrigerator does not contain a thermometer, it is recommended that the Provider obtains one to monitor refrigerator temperatures. Some local health departments require thermometers to be present in refrigerators.
- If the Provider’s refrigerator does not have a thermometer, the Licensing Specialist will use his/her own thermometer to check the temperature.
- Food brought from a child’s home and stored at the family child care home must be checked daily to determine if it is still edible.

C. As soon as a child has finished eating, discard any remaining food that has come into contact with:

1. The child’s mouth; or
2. A utensil used by the child for eating.

**INTENT:** Leftover food that may have been contaminated by saliva must be discarded.
INSPECTION REPORT ITEM: “Food Storage and Cleanliness”

COMPLIANCE CRITERIA: Partially eaten food is thrown away.

ASSESSMENT METHOD:

- Observation of meals/snacks to determine what happens to partially eaten food.

- If observation is not possible, discussion to determine what happens to partially eaten food.
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.01 Inspections.

A. The office shall inspect each family child care home:
   (1) On an announced basis before issuing a certificate of initial registration or continuing registration; and
   (2) On an unannounced basis, at least once within each 12-month period after the date that a certificate of initial registration or continuing registration was issued to the provider.

INTENT:

- To validate compliance with the family child care regulations, the Regional Office will conduct an announced inspection before an initial or continuing registration is issued.

- To validate ongoing compliance with the family child care regulations, the Office will conduct an unannounced inspection at least once every 12 months after the issuance of an initial or continuing registration and at least 30 days prior to the anniversary date.

Note:

- An announced conversion inspection may be conducted on the same day as the 2nd 12-month “initial registration” unannounced inspection; however, a separate ELIS report must be completed for each type of inspection. See “Establishing Anniversary Dates and Coordinating Inspections”.

- Routine unannounced inspections may be “piggybacked” onto monitoring visits as well as complaint investigations; however, a separate ELIS report must be completed for each type of inspection. See “Establishing Anniversary Dates and Coordinating Inspections”.

- During unannounced visits, oftentimes a family child care home may not be available for inspection due to the absence of the provider, the provider is not currently providing care, or the family child care home is simply closed. For guidance in addressing these issues, see “Non Responsive Providers and Providers Not Providing Care”.

B. The provider or substitute shall permit inspection of all areas of the home by the agency representative during the provider’s hours of operation.

INTENT: Under Maryland law, it is the duty of the Office to inspect each home to determine if the home and the child care program comply with family child care regulations. The Provider must allow inspection of the home by Office licensing staff during approved program hours.
INSPECTION REPORT ITEM: “Inspections”

COMPLIANCE CRITERIA: The Provider allows inspection by OCC licensing staff at any time during the home’s approved hours of operation.

ASSESSMENT METHOD: An inspection is either permitted or not.

Notes:

- Except as noted under Regulation E below, if the Provider fails to permit inspection of the Provider’s home during approved hours of care, the Provider’s registration may be suspended or revoked. If entry to the home is refused, the Licensing Specialist should notify the Regional Manager, and the Regional Manager should notify the OCC Legal Enforcement Unit.

- If children are heard or seen on the premises and the Provider refuses entry of OCC staff, the Licensing Specialist must call the local police.

- During any inspection, if the Licensing Specialist hears sounds (for example, thumps, crying, child voices) coming from a part of the home not approved for child care, the Specialist should ask if there is anyone else present in the home and, if someone else is present, who that person is. If the person has not been reported to OCC as a resident of the home, the Specialist should observe the area where the person is located. The Specialist’s observations should be recorded in the Summary of Findings if the area is observed.

- All inspections must be conducted in a manner exhibiting good customer service. (see “Customer Service – Referenced in Manual”)

- All findings of compliance and noncompliance must be noted by the Licensing Specialist in the Electronic Licensing Inspection System (ELIS). If the system malfunctions for any reason, a paper inspection report must be used.

- “Non-compliances” and “Discussed” items are automatically summarized in the “Summary of Findings” in ELIS.

- The entire inspection report consists of the completed “Inspection Report” form and the “Summary of Findings.”

- The inspection report is emailed to the provider, or if applicable, sent by the U.S. Postal Service.

- The scope of an inspection shall be as follows:
COMAR 13A.15.13 Inspections, Complaints, and Enforcement

- **Announced inspection** of the Provider’s entire home shall be conducted for purposes of initial registration and resumption of service registration (i.e., registration at a new address or after a break in service).

- **Announced conversion inspections** shall be confined to the areas approved for child care. However, if the registration certificate specifies that certain parts of the home (which may include the outdoor area) are restricted from use, the Licensing Specialist should verbally confirm to the Provider (and note as a comment in the inspection report) that those restrictions remain in effect.

- **Annual unannounced inspections** shall be confined to the areas approved for child care. However, if the registration certificate specifies that certain parts of the home (which may include the outdoor area) are restricted from use, the Licensing Specialist should verbally confirm to the Provider (and note as a comment in the inspection report) that those restrictions remain in effect.

- **Follow-up inspections** to determine if a previously cited noncompliance has been corrected shall be confined to the approved child care area(s) unless the noncompliance was observed in another part of the home (in which case, the inspection may include that part in order to determine if correction has occurred).

- **Monitoring inspections** conducted in accordance with “Compliance Agreements” shall be confined to the areas approved for child care unless components of the agreement (for example, maintaining capacity, non-access of certain individuals) require observation of other parts of the home.

- **Complaint investigation inspections** shall be confined to the approved child care areas unless the nature of the complaint (for example, an allegation of overcapacity, or an unreported resident, or violation of a non-access agreement) suggests that another area of the home may be involved. In that case, the Licensing Specialist shall inspect the entire home, and, if a follow-up inspection is required, the entire home may also be inspected at that time.

**C.** The agency representative may make inspections, in addition to the announced and unannounced inspections specified in §A of this regulation, without prior notice to the provider.

**INTENT:** To determine if all children in care are safe and receiving proper care and supervision, Office licensing staff may make an unannounced inspection of the Provider’s home at any time during the home’s approved hours of operation.
D. Upon request, the provider or substitute shall make the records required by this subtitle available to the agency representative for inspection and copying.

**INTENT:** The Provider must allow Office licensing staff to inspect all records maintained in connection with the child care program and, if necessary, to remove any record from the home temporarily in order to copy it.

**INSPECTION REPORT ITEM:** “Inspections”

**COMPLIANCE CRITERIA:**

- All records are freely available for inspection by Office licensing staff.
- Upon request, the Provider release a record temporarily for copying.

**ASSESSMENT METHOD:** Records are either made available or not.

E. A provider or substitute may request satisfactory identification from the agency representative before admitting the person for an inspection.

**INTENT:** For the Provider’s own protection and the protection of residents and the children in care, the Provider may ask Office licensing staff for identification before permitting entry to the Provider’s home.

**Notes:**

- At all times while on duty, each Office licensing staff member shall carry and be prepared to display valid State of Maryland employee identification.
- If an Office staff member cannot or will not produce valid State of Maryland employee identification, the Provider may deny the staff member entry to the home.

F. A provider may appeal a finding of noncompliance with this subtitle by requesting a review of findings by the regional office or the central office of the Agency.

**INTENT:** If the Provider believes that a finding of noncompliance was wrong or unfair, the Provider may ask for a review of that finding by Office of Licensing management staff.

**Notes:**

The following are the steps for appealing a finding of noncompliance:
• Upon completion of the inspection, the Provider checks the box on the first page of the ELIS “Summary of Findings,” indicating that a review of findings is requested, or make the request to the Regional Office, via writing or email, within 30 days of the inspection.

• The Licensing Specialist notifies the Regional Manager/designee of the request.

• The Regional Manager/designee reviews the inspection data in ELIS and sends a letter to the Provider outlining the findings of the review.

• If the Provider requests a meeting and at that meeting the issues are not resolved, the Regional Manager/designee contacts the Program Manager of the OCC Licensing Branch.

• Instead of agreeing to meet with the Regional Manager/designee, the Provider may choose to contact the Licensing Branch Program Manager directly. In this event, the Regional Manager/designee shall:
  
  ➢ Give the Provider the name and telephone number of the Program Manager, and

  ➢ Call the Program Manager to summarize the situation, provide pertinent background information, and present the recommendation of the Regional Office.

.02 Complaints.

The office shall investigate:
A. Both written and oral complaints that relate to a potential violation of a regulation under this subtitle, including anonymous complaints; and

**INTENT:** As the agency responsible for regulating family child care programs and assessing their compliance with child care regulations, the Office must investigate all complaints of regulatory violations. Any person may file a complaint, and the complaint may be verbal or written.

**Notes:** Complaints alleging a violation of family child care registration laws or regulations are handled in the following manner:

• The Regional Office accepts complaints that are filed in person, telephonically, or in writing by letter, fax, or e-mail.

• A complainant does not need to identify him/herself. Anonymous complaints are accepted.
At the time it is received at the Regional Office, each complaint is classified as “Priority One” or “Priority Two”, based on the seriousness of the complaint allegations.

- Investigation of Priority 1 complaints must be initiated within 48 hours.
- Investigation of Priority 2 complaints must be initiated within ten (10) business days.

Complaints are recorded by the Regional Office on a Complaint Intake form in the Child Care Administrative Tracking System (CCATS). A Provider may review a Complaint Intake form completed for a complaint filed against the home (although all material, if any, related to Child Protective Services must be redacted by the Regional Office).

Complaint inspection/investigation results are recorded by the Regional Office in the Electronic Licensing Inspection System (ELIS).

After the complaint investigation is finished, the complaint and the investigation findings are summarized on a Record of Complaint form in the Child Care Administrative Tracking System (CCATS).

Upon receipt of a written Public Information Act (PIA) request, the summary of an unconfirmed or confirmed complaint may be released to:

- The person making the complaint,
- A parent whose child was enrolled at the child care center, or
- A parent or business that currently uses (or is considering using) the child care center.

Any information related to Child Protective Services must be redacted by the Regional Office prior to releasing the Record of Complaint in response to a PIA request.

Complex PIA requests or PIA requests from Attorneys must be referred to the Office of the Attorney General for processing.

B. Complaints of unregistered family child care.

**INTENT:** Unless exempt by Maryland law from having to become registered, a person who provides unregistered family day care is violating the law. The Office is responsible for investigating all complaints of unregistered care to determine if a violation has been committed.

**Note:** See “Guidelines for Investigating Complaints of Unregistered or Unlicensed Child Care”
.03 Warnings.

If an investigation of a complaint or an inspection of a family child care home indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:

A. The violation found, citing the regulation;

B. The time period for correcting the violation; and

C. That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the registration.

**INTENT:** A warning serves notice that the Provider have failed to comply with one or more child care regulations and that corrective action must be taken within a certain amount of time. Failure to make the correction may result in some enforcement action against the registration.

.04 Intermediate Sanctions.

A. Upon determining that a provider has violated or a home fails to meet any of the regulations of this subtitle, the office may:

(1) Restrict the age or number of children accepted for care;

(2) Reduce the number of children in care;

(3) Require the provider to receive remedial instruction in a specified content area;

(4) Increase the frequency of monitoring of the home during a specified period of time;

(5) Enter into an agreement with the provider detailing requirements in addition to those above, including time limits for compliance; and

(6) Notify, or require the provider to notify, a parent of a child who may be affected by the situation for which a sanction has been imposed.

**INTENT:** As an alternative to suspending or revoking the Provider’s registration, the Office may pursue an intermediate sanction which places certain limits or conditions on the operation of the Provider’s child care program. An intermediate sanction (voluntary or involuntary) should be seen as an opportunity for the Regional Office to work closely with the Provider to help bring the Provider’s child care program into full compliance.

**Notes:**

- An intermediate sanction may be voluntary on the part of the Provider, or involuntary:
  - Voluntary – for example, a compliance agreement
Involuntary – for example, the Regional Office imposes a reduction in capacity or a limitation on the number or ages of children the provider may admit for care.

Involuntary sanctions carry appeal rights, but voluntary sanctions do not. For additional information on “appeals” refer to the following:

- “Request for Hearing/Appeal” form, OCC 1281
- COMAR 13A.15.14, Administrative Hearings

A limitation on admission of children or a reduction in capacity may be imposed immediately on an emergency basis if deemed necessary to protect children from imminent harm.

A voluntary compliance agreement must be in writing, signed by the Provider and the Regional Office representative, and include a statement of:

- Facts about the noncompliant situation that resulted in the agreement,
- The respective responsibilities of the Provider and the Regional Office under the agreement, and
- The consequences to the Provider of failing to observe the terms of the agreement.
- The timeframe in which the compliance agreement will be in effect.

B. If the office determines that the provider has violated a condition or requirement of the intermediate sanction, the office may suspend or revoke the registration.

**INTENT:** The Provider is expected to abide by all the terms of the agreement. Failure to do so may result in suspension or revocation of the Provider’s registration.

.05 Nonemergency Suspension.

A. The office may suspend the certificate of registration, for a period of not more than 60 calendar days, upon determining that:

1. The provider or home is in violation of any of the regulations under this subtitle and that the health, safety, or welfare of a child in the home is threatened; or
2. If the registration is a continuing registration that was placed on conditional status, the:
   a. Conditional status has lapsed; and
   b. Provider has failed to meet the requirements for lifting the conditional status.

**INTENT:** To protect the safety and health of children in care, the Office may move to close the home temporarily to allow the Provider an opportunity to correct the violation or situation that poses a threat to the children.
B. The office shall notify the provider in writing of the suspension at least 20 calendar days before the effective date stating:

1. The effective date and period of the suspension;
2. The reason for suspension;
3. The regulation with which the provider has failed to comply that is the basis for the suspension;
4. Corrections required to ensure reinstatement of the certificate of registration;
5. That the provider shall stop providing child care on the effective date of the suspension unless the provider requests a hearing;
6. That the provider is entitled to a hearing if requested in writing within 20 calendar days of the delivery of the notice;
7. The procedure to be used if the provider wishes to request a hearing to appeal the decision of the office;
8. That the suspension shall be stayed if a hearing is requested;
9. That, if the suspension is upheld following the hearing, the provider shall cease providing child care for the period of the suspension;
10. That the suspension may lead to revocation; and
11. That the provider is required to surrender the certificate of registration to the office when the suspension becomes effective.

**INTENT:** Under due process requirements, the Office must notify the Provider in writing of the reasons for/details of the suspension, and inform the Provider of the Provider’s appeal rights and how those rights may be exercised.

**Notes:**

- If the Provider requests a hearing within the required timeframe, the suspension does not begin until **after** the hearing decision. Until that time, the Provider may continue to operate. If the suspension action is upheld, the Provider must cease providing care until the Office determines that the children in care are no longer threatened.

- For additional information, refer to the following:
  - “Request for Hearing/Appeal” form, OCC 1281
  - COMAR 13A.15.14, Administrative Hearings

- A non-emergency suspension may be imposed when the provider fails to comply with regulations and a potential risk to the health, safety, or welfare of children in care is presented. *Examples include (but are not limited to):*
  - Failure to report a new resident,
  - Unauthorized use of a substitute (or use of an unapproved substitute), and
  - Failure to correct non-compliances as required by the Office.

- A suspension may also be used if temporary closure of the program is in the best interests of children in care. *Examples include (but are not limited to):*
COMAR 13A.15.13 Inspections, Complaints, and Enforcement

- The home must be renovated or modified for health or safety purposes, and closure will allow those changes to occur, and
- Illness or incapacitation of the provider.

C. The office shall notify the parents of the children in care of the suspension.

**INTENT:** Parents must be informed of the suspension so that they can make other child care arrangements

D. By the end of the suspension period, the office shall:
   1. Reinstated the certificate of registration and return it to the provider; or
   2. Revoke the certificate of registration.

**INTENT:** Within 60 days after the suspension, the Office will determine if the violation(s) leading to the suspension have been sufficiently corrected, and either permit the Provider to re-open the Provider’s home, or move to revoke the Provider’s registration.

.06 Emergency Suspension.
A. The office may immediately suspend the certificate of registration for a period of not more than 45 calendar days upon finding that a child's health, safety, or welfare imperatively requires emergency action.

**INTENT:** Upon determining that there is imminent danger to the children in care, OCC may close the Provider’s home immediately.

**Notes:**
- Emergency suspensions are generally used in cases of child abuse or injurious treatment, criminal involvement, gross overcapacity or lack of supervision, violation of a non-access agreement, failure to provide access to the day care home during operating hours, or accidental injury to a child in care.

- Emergency suspensions may also be used during outbreaks of certain communicable diseases, environmental hazard cases such as failed septic systems, and other instances where children’s safety is immediately threatened and there is no alternative to immediate closure.

B. The office shall hand-deliver a written notice to the provider informing the provider of the emergency suspension, giving the reasons for the action, and notifying the provider of the right to request, within 30 days of the delivery of the notice, a hearing before the Superintendent’s designee.
INTENT: In accordance with due process requirements, the Office must notify the Provider about the reason(s) for the suspension, the Provider’s right to appeal the suspension, and how to exercise that right.

Note: For additional information, refer to “Request for Hearing/Appeal form OCC 1281” and “COMAR 13A.15.14 - Administrative Hearings”

C. When the certificate of registration is to be suspended immediately:
   (1) The office shall repossess the certificate of registration;
   (2) The provider shall stop providing child care immediately; and
   (3) The office shall notify the parents of the children in care of the suspension and make every reasonable effort to assist the parents of the children in making other child care arrangements.

INTENT: Due to the urgency of the situation, the Office must ensure that the Provider ceases care immediately. Emergency suspensions take effect immediately upon delivery of the emergency suspension notice to the Provider and may last for up to 45 calendar days. To minimize disruption to the families of children in care, the Office shall assist parents to find alternate care arrangements.

Notes:

• Once the decision is made to conduct an emergency suspension, the Regional Manager/designee notifies the local Child Care Resource Center (CCRC) of the imminent emergency suspension. This allows the CCRC to be prepared to assist parents in finding alternate child care.

• As soon as the suspension action is taken, the Licensing Specialist compiles a list of names and addresses of all the parents of children in care.

• The Licensing Specialist hand delivers the suspension letter to parents arriving at the home to pick up children, or the Regional Manager sends the suspension letter by regular mail to each parent reporting that:
  ➢ The family registration has been suspended,
  ➢ The Provider may appeal the suspension,
  ➢ The Provider must immediately stop providing care, and
  ➢ The parent may contact the local CCRC for assistance.

• If the action is appealed, another letter is sent to each parent as soon as the appeal has been decided to let the parent know the outcome of that decision.

D. If a hearing is requested by the provider, the Superintendent’s designee shall hold a hearing within 7 calendar days of the date of the request.
INTENT: The Provider have the right to a timely hearing of an appeal.

E. Within 7 calendar days of the hearing, a decision concerning the emergency suspension shall be made by the Superintendent's designee.

INTENT: The Provider have the right to a timely decision of the appeal.

F. If the decision does not uphold the emergency suspension, the provider may resume providing child care.

INTENT: If the suspension is overturned, the Office must immediately reinstate the Provider's registration.

G. By the end of the suspension period, the office shall:
   (1) Reinstatement of the certificate of registration and return it to the provider; or
   (2) Revocation of the certificate of registration.

INTENT: At or before the expiration of the suspension, the Office shall either permit the Provider to re-open the Provider’s home or move to revoke the Provider’s registration.

.07 Revocation.
A. The office may revoke a certificate of registration if the:
   (1) Provider or home is in violation of one or more of the regulations under this subtitle and the health, safety, or welfare of a child in the home is threatened;
   (2) Provider misrepresented or offered false information on the application or on any form or report required by the office;
   (3) Provider interferes with or obstructs the agency representative in the performance of the duties of the office;
   (4) Provider fails to submit all documentation required to maintain the certificate of registration;
   (5) Provider or substitute refuses to permit access to a child or to the space in the home used for child care by a parent or an agency representative during operating hours of the child care home;
   (6) Terms or conditions of a sanction have been violated;
   (7) Registration is a continuing registration that was placed on conditional status, and the:
      (a) Conditional status has lapsed; and
      (b) Provider has failed to meet the requirements for lifting the conditional status;
   (8) Provider, an additional adult, a substitute, or a resident is identified as responsible for abuse or neglect of children or adults;
   (9) Provider, an additional adult, a substitute, or a resident has a criminal conviction, probation before judgment, or a not criminally responsible disposition, or is awaiting a hearing on a charge for a crime that:
      (a) Is listed at COMAR 13A.15.02.07B(1)—(11); or
(b) Indicates other behavior harmful to children;

(10) Provider fails to comply with the child security requirements set forth in COMAR 13A.15.07.07;

(11) Provider permits an individual to have child supervision responsibilities after being notified by the office that the individual has been disapproved for that purpose;

(12) Evaluation of information provided to or acquired by the office indicates that the provider is unable to care for the welfare of children;

(13) Provider who also provides treatment foster care in the home admits a child for treatment foster care in the home, unless the child is placed in the home in a preadoptive capacity, and

(14) The family child care home is no longer the primary residence of the provider.

INTENT: Revocation of the registration may occur if the Provider have demonstrated an inability or unwillingness to comply with family child care regulations, or if the Provider or a circumstance involving the Provider’s home presents a threat to children in care.

Notes:

- Revocation often follows a period of emergency suspension.

- A revocation becomes effective 20 calendar days after notification of revocation.

- If the revocation action is appealed, the revocation is stayed until the Office of Administrative Hearings (OAH) has heard the appeal and made a decision. If the revocation action follows an emergency suspension, the home must remain closed until OAH has reached a decision on the appeal.

- See “Request for Hearing/Appeal Form OCC 1281 and COMAR 13A.15.14, Administrative Hearings” for requirements pertaining to the appeal hearing process under the Office of Administrative Hearings (OAH).

B. If the office decides to revoke a certificate of registration, the office shall notify the provider in writing at least 20 calendar days in advance of the revocation, stating:

1. The effective date of the revocation;
2. The reason for the revocation;
3. The regulation with which the provider has failed to comply that is the basis for the revocation;
4. That the provider shall stop providing child care on the effective date of the revocation;
5. That the provider is entitled to a hearing if requested in writing within 20 calendar days of the delivery of the notice;
6. The procedure to be used if the provider wishes to request a hearing to appeal the decision of the office;
(7) The revocation shall be stayed if the hearing is requested, unless the revocation immediately follows an emergency suspension period; and

(8) That the provider is required to surrender the certificate of registration to the office when the revocation becomes effective.

**INTENT:** In accordance with due process requirements, the Office must notify the provider of the reason(s) for the revocation, the provider’s right to appeal the revocation action, and how that right may be exercised.

**Notes:**

- If the revocation action is appealed, the revocation is stayed until the Office of Administrative Hearings (OAH) has heard the appeal and made a decision. If the revocation action follows an emergency suspension, the home must remain closed until OAH has reached a decision on the appeal.

- See “Request for Hearing/Appeal Form OCC 1281 and COMAR 13A.15.14, Administrative Hearings” for requirements pertaining to the appeal hearing process under the Office of Administrative Hearings (OAH).

- If the revocation action is upheld by OAH at the appeal hearing, the Provider must immediately surrender the family child care home registration to the Regional Office.

**C. The office shall notify the parents of the children in care of the revocation.**

**INTENT:** Parents need to know about the revocation action so they can make an informed decision about whether to leave their children in care at the home if it is allowed to remain open pending an appeal hearing. They must also be notified so that they can make suitable alternate child care arrangements if they wish.

**Notes:**

Parents are notified of the revocation action as follows:

- As soon as the revocation action is taken, the Licensing Specialist compiles a list of names and addresses of all the parents using the child care program.

- The Regional Manager sends a letter by regular mail to each parent reporting that:
  - The registration has been revoked,
  - The provider may appeal the revocation, and
  - The provider may remain in operation until the appeal is concluded.
If the action is appealed, another letter is sent to each parent as soon as the appeal has been decided to let the parent know the outcome of that decision.

08 Penalties.
A. An individual found to be operating a family child care home, or advertising a family child care service, without a valid family child care registration is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:
   (1) $1,500 for the first violation; and
   (2) $2,500 for a second or subsequent violation.
B. The office may institute legal proceedings to:
   (1) Enjoin any individual not registered who is providing family child care from continuing to operate; or
   (2) Ask a court in the jurisdiction of the family child care home to impose a fine of up to the maximum amount permitted by law on an individual found to be operating in violation of this subtitle.

INTENT:

- Operation of a family care home without a certificate of registration is a misdemeanor and fines may be imposed. The Office can request the issuance of a criminal summons against an alleged unregistered provider by filing an application for statement of charges with the court commissioner in the District Court. If the provider is found guilty of the misdemeanor charge, a criminal fine may be imposed for each occurrence.
- If an unregistered provider continues to operate in violation of a court injunction, the court may impose a fine.

09 Civil Citations.
A. The office may issue a civil citation imposing a civil penalty to an individual who provides unregistered family child care in violation of the requirements of this subtitle.

INTENT: Maryland law establishes civil penalties for operating an unregistered family child care home. These civil penalties are imposed through issuance of civil citations by the Office.

B. Assessment of Penalty.
   (1) Subject to §B(3) of this regulation, an individual to whom a civil citation is issued is subject to a civil penalty in the amount of:
      (a) $250 for the first violation;
      (b) $500 for the second violation; and
(c) $1,000 for the third and each subsequent violation.
(2) Each day that unregistered family child care occurs in violation of the requirements of this subtitle is a separate violation under this regulation.
(3) The total amount of civil penalty imposed against an individual in an action under this regulation may not exceed $5,000.

**INTENT:** Increased penalties for continued violations of the law are intended to discourage those violations.

C. An individual against whom a civil penalty has been imposed under this regulation shall pay the full amount of the penalty promptly to the Department, as instructed by the civil citation or as otherwise directed by the office.

**INTENT:** The full amount of a penalty must be paid when and as specified.

D. Appeals.
(1) An individual may appeal the imposition of a civil penalty under this regulation by filing an appeal with the office as instructed by the civil citation or as otherwise directed by the office.
(2) Appeals are conducted in accordance with the provisions of COMAR 13A.15.14.

**INTENT:** An individual who has been issued a civil citation may appeal the assessed penalty. The appeal shall be processed and heard according to procedures established by State regulation.
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(November 2016)

for use with

COMAR 13A.15 Family Child Care
(as amended effective 7/20/15)

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.01 Scope.
A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact on family child care registrations, such as registration denials, revocations, suspensions, reductions in capacity, or limitations on the ages or numbers of children who may be admitted to a family child care home.
B. The Superintendent has delegated authority to administrative law judges of the Office of Administrative Hearings to make the final decisions of the Superintendent on those actions listed in §A of this regulation. A decision by an administrative law judge of the Office of Administrative Hearings in a family child care registration case is the final decision of the highest administrative authority in the case and thus is directly appealable to the circuit court in the jurisdiction where the family child care home is located, pursuant to State Government Article, §10-222, Annotated Code of Maryland.

.02 Definitions.
A. In this chapter, the following terms have the meanings indicated.
   Terms Defined.
   (1) "Administrative law judge" means a hearing officer designated by the Maryland Office of Administrative Hearings to render the final decision of the Superintendent in a hearing.
   (2) "Appellant" means the individual requesting the hearing or appealing a decision, or that individual's legal representative.
   (3) "Applicant" means an individual applying for a registration to operate a family child care home.
   (4) "Capacity" means the number of day care children who may be in care at a family child care home at the same time.
   (5) "Days" means calendar days.
   (6) "Department" means the State Department of Education.
   (7) Emergency Action.
      (a) "Emergency action" means an action which is effective immediately because of danger to children's health or safety.
      (b) "Emergency action" may include an emergency suspension, an immediate reduction in capacity, and an immediate limitation on the ages or numbers of children who may be admitted to care.
   (8) "Filed" means received in writing by the Office of Child Care.
   (9) "Filing date" is the date a hearing request is received by the Office of Child Care.
   (10) "Office" means the central office or a regional office of the Office of Child Care.
   (11) "Office of Administrative Hearings" means the administrative unit of Maryland government which is responsible for processing requests for hearings, for scheduling and conducting hearings, and for rendering decisions.
pursuant to State Government Article, §9-1601 et seq., Annotated Code of Maryland.

(12) "Party" means the appellant and the Office of Child Care.
(13) "Provider" means a person registered to provide family child care.
(14) "Registration" means a certificate issued by the Department which gives a person legal permission to operate a family child care home.
(15) "Superintendent" means the State Superintendent of Schools.

.03 Hearing Requests.

A. A hearing shall be held when an applicant or provider requests a hearing to contest:
   (1) The denial of an application for registration;
   (2) A revocation or suspension of a registration; or
   (3) Any other action that adversely impacts on registration, including, but not limited to:
       (a) The setting of a provider's capacity at a number below that requested,
       (b) A reduction in capacity, or
       (c) A limitation on the ages or numbers of children who may be admitted to the family child care home.

B. Non-emergency Action Hearing Requests.
   (1) All non-emergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the provider, and the effective date and nature of the action appealed from.
   (2) A hearing request shall be filed not later than 20 days after the date of the notice of the action taken by the Office.
   (3) The Office shall forward a hearing request to the Office of Administrative Hearings within 10 days of the filing date.
   (4) A hearing decision shall be rendered by the Office of Administrative Hearings within 90 days of the filing date.
   (5) Any non-emergency action is stayed if a hearing request is timely filed, unless the action is:
       (a) A revocation which immediately follows an emergency suspension period; or
       (b) A denial which follows the expiration of the provisional period of a registration that was issued on a provisional basis.

C. Emergency Action Hearing Requests.
   (1) All emergency action hearing requests shall be filed with the Office within 30 days of the hand-delivery of the notice of the Office's action, and shall state the name and address of the provider, and the effective date and action appealed from.
   (2) The Office shall notify the Office of Administrative Hearings at once upon receipt of an emergency action hearing request. Oral notification shall be followed by written notification within 24 hours.
COMAR 13A.15.14 Administrative Hearings

(3) A hearing shall be conducted within 7 days of the filing date of the hearing request.
(4) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.
(5) The filing of a hearing request may not stay an emergency action.

.04 Preliminary Conference.
The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.
A. The conference is optional and does not replace the hearing process.
B. The conference may be attended by a representative of the Office, the appellant, and the appellant's representative.
C. The conference may lead to an informal resolution of the dispute. However, a hearing shall be held unless one of the parties submits a written withdrawal of the hearing request to the Office of Administrative Hearings.

.05 Denial or Dismissal of a Hearing Request.
A. The Office of Administrative Hearings may deny a request for a hearing if:
   (1) The issue appealed is not one which adversely affects the registration of a family child care home; or
   (2) The date of the request is not within the required time limits.
B. The Office of Administrative Hearings may dismiss an appeal if the appellant:
   (1) Withdraws the request in writing; or
   (2) Without good cause, does not appear at the hearing.

.06 Hearing and Appeal Procedures.
A. Notice to Appellant.
   (1) For non-emergency hearings, the Office of Administrative Hearings shall, by regular mail, notify the Office and the appellant of the time, date, and place of the hearing at least 20 days in advance. For rescheduled nonemergency hearings, a 10-day notice is required. For all emergency action hearings, at least 3 days advance notice is required.
   (2) The notice to the appellant shall:
      (a) Refer to the regulations governing the hearing procedure; and
      (b) Advise the appellant of:
         (i) The right to be represented by a lawyer;
         (ii) The right to present documents and witnesses in support of the appeal;
         (iii) Whom to call if the appellant cannot attend the hearing; and
         (iv) The fact that failure to attend the hearing without good cause may lead to dismissal.
   (3) The Office shall mail the appellant a copy of these administrative hearing regulations when the request for a hearing is filed.
B. Rescheduling of Non-emergency Action Hearings. The appellant, the Office, or the Office of Administrative Hearings may request a change in the hearing date. If the Office of Administrative Hearings finds that good cause for delay exists, another date shall be set. The time limit for rendering a decision established by Regulation.03B(4) is extended by the period of delay due to a postponement requested by the appellant.

C. Rescheduling of Emergency Action Hearings. Emergency action hearings may only be rescheduled by the Office of Administrative Hearings with the consent of both parties or on motion of a party, if substantial prejudice is demonstrated. Only one postponement of an emergency action hearing may be granted.

D. The appellant may examine the appellant’s family child care registration record for the purpose of discovering information pertinent to the appeal before the hearing.

E. By agreement, the appellant and the Office may exchange witness lists and documents before the hearing.

F. The procedures in §§D and E of this regulation do not constitute good cause for delay of a hearing.

.07 Conduct of Hearing.
A. The hearing shall be conducted by an administrative law judge.
B. At the hearing, the appellant and a representative of the Office may present witnesses, documentary evidence, and oral argument and may cross-examine any witness. A document introduced into evidence by a party may be examined by the opposing party.
C. The transcript or tape of the proceedings, together with all documents filed in the hearing proceedings and the final decision of the administrative law judge, constitute the exclusive record of the hearing.

.08 Decision.
A. The administrative law judge shall:
   (1) Base the decision on the complete record; and
   (2) Determine whether the Office correctly applied State regulations in effect at the time it reached its decision.
B. The final decision of the administrative law judge shall be accompanied by findings of fact and conclusions of law.
C. The final decision shall be binding upon the Department and shall be implemented immediately unless otherwise specifically indicated in the decision.
D. The decision of the Office of Administrative Hearings in cases under this chapter constitutes the decision of the Department.
E. A copy of the decision shall be delivered or mailed promptly to each party or the attorney of record.
F. A party dissatisfied with the decision of the administrative law judge may appeal that decision directly to the circuit court of the appropriate jurisdiction within 30 days from the date notice of the decision is sent to the party, or as otherwise provided in Maryland Rules 7-201—7-211.
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.01 Definitions.
   A. In this chapter, the following terms have the meanings indicated.
   B. Terms Defined.
      (1) "Confirmed complaint" means a determination by the Department or office after an investigation that the violation of a regulation of this subtitle that was alleged in the complaint has occurred or is occurring.
      (2) "Custodian of record" means an authorized individual employed by the Department or office who has physical custody and control of licensing records.
      (3) "Licensing records" means all papers, computerized records, correspondence, forms, books, cards, photographs, photostats, films, microfilms, sound recordings, charts, maps, drawings, or other written documents, regardless of physical form or characteristics, maintained or stored by the Department or the office in connection with the registering of a person or a family child care home to provide child care.
      (4) "Official custodian of record" means the Superintendent or the Superintendent's designee who is responsible for the maintenance, care, and storage of the Department's licensing records.
      (5) "Requester" means an individual, business, corporation, partnership, association, organization, or governmental agency that requests inspection of, or information from, licensing records.
      (6) "Sociological information" means any of the following information about a licensee or employee of a licensee:
         (a) Social Security number;
         (b) Personal address;
         (c) Personal phone number;
         (d) Information regarding marital status, dependents, or relatives; and
         (e) Information regarding employment status, including employment application.
      (7) "Unsubstantiated complaint" means a complaint of an alleged violation of a regulation of this subtitle that the Department or office, after an investigation, has been unable to confirm as having occurred or to rule out as not having occurred.

        INTENT: The purpose of these definitions is to establish a clear and consistent meaning of certain terms pertinent to requests for information contained in child care licensing records. Whenever one of these terms appears in this Chapter of these regulations it shall mean only what its definition above says it means.

.02 Disclosure of Information from Licensing Records.
   A. Except as prohibited or restricted by applicable law or regulation, the custodian of record may make the following information from licensing records available to a requester:
(1) Findings of inspections conducted by the office in registered family child care homes;
(2) Records of complaint forms pertaining to confirmed or unsubstantiated complaints;
(3) Copies of certificates of registration, including those on provisional or conditional status;
(4) Variances;
(5) Correspondence and documents requiring abatement of noncompliances with the regulations of this subtitle, including compliance agreements;
(6) Correspondence and documents pertaining to enforcement actions taken by the Department or office against a family child care provider or a family child care home, including denial letters, sanctions, emergency suspensions, and revocations; and
(7) Correspondence regarding requests for inspection of licensing records under this regulation.

**INTENT:** Except for records that are prohibited by law from release (for example, child abuse and neglect records), an eligible requester may inspect certain licensing records pertaining to a facility’s compliance with child care regulations. Providers may inspect the contents of their own licensing files.

B. The custodian of record may not disclose sociological information to a requester, except that this information may be disclosed:
   (1) To public employees in the performance of their public duties;
   (2) To parties litigating claims for unemployment insurance to the extent the sociological information would be available to private parties in litigation; or
   (3) When required by a duly issued subpoena.

**INTENT:** The Office needs to have certain personal information about the Provider in order to perform its licensing functions. However, the Office is prohibited from releasing that information unless directed by a court of law, or to help establish certain legal claims, or for legitimate public agency purposes.

.03 Request for Information from Licensing Records.

A. A written request shall be filed with the custodian of record in order to:
   (1) Conduct a physical inspection of licensing records; or
   (2) Obtain a written or electronic:
      (a) Copy of licensing records; or
      (b) Report of information from licensing records that the official custodian of records does not already make available to the general public.

**INTENT:** Record inspection requests must be submitted to the Regional Office of OCC by mail or email.
B. The written request shall:
   (1) Contain the applicant's name, address, and telephone number;
   (2) Be signed by the applicant; and
   (3) Reasonably identify by brief description the record sought.

C. A request may be made in any form or format if it does not involve:
   (1) Physical inspection of licensing records; or
   (2) Preparation of a written or electronic:
      (a) Copy of licensing records; or
      (b) Report of information from licensing records.

D. The custodian of record may charge a reasonable fee for:
   (1) The reproduction of documents sought;
   (2) Official or employee time expended searching for requested records; or
   (3) Any time expended in preparing records for inspection or copying.

.04 Compelling Public Purpose.
A compelling public purpose shall exist for the custodian of record to permit inspection of licensing records other than the records specified under State Government Article, §10-617(h)(2), Annotated Code of Maryland.

  INTENT: Under Maryland law, any member of the public may obtain certain information from a child care licensing record.