

NOTICE OF PROPOSED RULEMAKING

CHAPTER 414

OREGON DEPARTMENT OF EDUCATION, EARLY LEARNING DIVISION

FILING CAPTION: Administrative Rules governing Regulated Subsidy Child Care Facilities

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/21/2018 5:00 PM

HEARING(S):

DATE: 05/15/2018

TIME: 6:00 PM

OFFICER: Peter Blume

ADDRESS: Veterans' Affairs Building

700 Summer Street NE

1st Floor Auditorium

Salem, OR 97301

SPECIAL INSTRUCTIONS:

To provide oral testimony, please sign in
no later than 6:15 p.m.

NEED FOR THE RULE(S):

ORS 329A directs the Early Learning Council to write administrative rules for the monitoring of Regulated Subsidy Child Care Facilities to ensure the health and safety of children whose families are receiving federal child care subsidy payments. Since 2012, the Early Learning Council (Council) has been charged with oversight of regulated child care programs, which includes Regulated Subsidy Child Care Facilities. Administrative rules are needed to establish a process for monitoring of Regulated Subsidy Child Care Facilities.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 329A: https://www.oregonlegislature.gov/bills_laws/ors/ors329A.html

FISCAL AND ECONOMIC IMPACT:

The potential for fiscal impact may exist for the inclusion of rules pertaining to the testing of lead in water used for drinking and food preparation. Requiring testing for every regulated subsidy child care facility would require small businesses to develop a plumbing profile to understand the potential sources of lead in the facility. Rule would require 3 tests for a Regulated Subsidy Child Care Facility, considered a small business for the purposes of the fiscal impact analysis. Based on a scan of statewide accredited laboratories, each tests costs approximately \$22.00 with a \$10.00 collection cost. Estimated costs to each facility would be approximately \$100.00.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and

administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

A series of community engagements were conducted and input from the public and small businesses was requested.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

CONTACT:

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RULES PROPOSED:

414-180-0005, 414-180-0010, 414-180-0015, 414-180-0020, 414-180-0025, 414-180-0030, 414-180-0035, 414-180-0040, 414-180-0045, 414-180-0050, 414-180-0055, 414-180-0060, 414-180-0065, 414-180-0070, 414-180-0075, 414-180-0080, 414-180-0085, 414-180-0090, 414-180-0095, 414-180-0105, 414-180-0110, 414-180-0120, 414-180-0130, 414-180-0140

AMEND: 414-180-0005

RULE TITLE: Purpose

RULE SUMMARY: Rule pertaining to the purpose of administrative rules for Regulated Subsidy Child Care facilities.

RULE TEXT:

Oregon Administrative Rules (OAR) 414-180-0005 through 414-180-0140 are the Early Learning Division's minimum health and safety requirements for license exempt child care providers who accept federal child care subsidy payments through the state. The purpose of these rules is to protect the health, safety, and well-being of children in care. These rules apply to child care providers who accept federal child care subsidies from the Oregon Department of Human Services or the Early Learning Division Office of Child Care and are exempt from child care licensing as outlined in ORS 329A.250.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0010

RULE TITLE: Definitions

RULE SUMMARY: Definitions of terms used in the rules for Regulated Subsidy Child Care facilities.

RULE TEXT:

The following definitions apply to Oregon Administrative Rules 414-180-0005 through 414-180-0140.

- (1) "Caregiver" means any person, including the provider, who cares for the children in Regulated Subsidy child care and works directly with the children, providing care, supervision and guidance.
- (2) "Child Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, legal guardian or custodian, during a part of the 24 hours of the day, with or without compensation.
- (3) "Child Care Child" means a child at least 6 weeks of age and under 13 years of age, or a child under 18 years of age with special needs. The provider has supervisory responsibility for the child in the temporary absence of the parent.
- (4) "Child with Special Needs" means a child under 18 years of age who requires a level of care over and above the norm for their age due to a physical, developmental, behavioral, mental or medical disability.
- (5) "Child Care Facility" means the location where child care is being conducted. This can be either a private residence or commercially zoned building.
- (6) "Communicable Disease" means an illness caused by an infectious agent or its toxins.
- (7) "Custodial parent" is the parent who is given the physical or legal custody of the child by court order.
- (8) "Disinfecting" means using a process for destroying or irreversibly inactivating harmful organisms, including bacteria, viruses, germs and fungi.
- (9) "Family" means a group of individuals related by blood, marriage or adoption, or individuals whose functional relationships are similar to those found in such associations.
- (10) "Guidance and Discipline" means the on-going process of helping children develop self-control and assume responsibility for their own acts.
- (11) "Infant" means a child who is at least 6 weeks of age up to 12 months of age.
- (12) "OCC" means the Office of Child Care, Early Learning Division of the Department of Education.
- (13) "Outbreak of Communicable Disease" means 2 cases from separate households associated with a suspected common source.

- (14) "Parent" means parent(s), custodian(s), or guardian(s) exercising physical care and legal custody of the child.
- (15) "Premises" means the structure where child care is conducted that is identified on the application or listed with the Department of Human Services, including indoors and outdoors, all out-buildings and any space not directly used for child care.
- (16) "Preschool-Age Child" means a child who is 36 months of age up to eligible to attend kindergarten in a public school.
- (17) "Provider" means the person or facility who is responsible for the children in care; is the children's primary caregiver; and who is listed with the Department of Human Services as the provider.
- (18) "Regulated Subsidy Child Care" means care that is provided to children whose families access federal child care subsidy funds through the state.
- (19) "Restrictable Disease" means an illness or infection that would prohibit the child from attending child care.
- (20) "Sanitizing" means using a treatment that provides enough heat or concentration of chemicals for enough time to reduce the bacterial count, including disease producing organisms, to a safe level on utensils, equipment and toys.
- (21) "Serious Injury" means any of the following:
- (a) Injury requiring surgery;
 - (b) Injury requiring admission to a hospital;
 - (c) Choking or unexpected breathing problems;
 - (d) Unconsciousness;
 - (e) Concussion;
 - (f) Poisoning;
 - (g) Medication overdose;
 - (h) Broken bone;
 - (i) Severe head or neck injury;
 - (j) Chemical contact in eyes, mouth, skin, inhalation or ingestion;

- (k) Severe burn;
- (l) Allergic reaction requiring administration of Epi-Pen;
- (m) Severe bleeding or stitches;
- (n) Shock or confused state;
- (o) Near-drowning.

(22) "Substitute Provider" means a person who acts as the child's primary caregiver in the temporary absence of the provider.

(23) "Supervision" means the act of caring for a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child. It requires a caregiver to be within sight or sound of the children, knowledge of children's needs, and accountability for children's care and well-being. Supervision also requires that caregivers be near and have ready access to children in order to intervene when needed.

(24) "Toddler" means a child who is at least 12 months of age but is not preschool-age.

(25) "Unsupervised Access to Children" means contact with children that provides the person opportunity for personal communication or touch when not under the direct supervision of a child care provider or staff with supervisory authority.

(26) "Useable Exit" means an unobstructed door or window through which the provider and the children can evacuate the child care facility in case of a fire or emergency. Doors must be able to be opened from the inside without a key.

(a) For buildings built before July 1, 2010, window openings must be at least 20 inches wide and at least 22 inches in height, with a net clear opening of five square feet (at least 720 square inches) and a sill no more than 48 inches above the floor.

(b) For buildings built after July 1, 2010, window openings must be at least 20 inches wide and at least 24 inches in height, with a net clear opening of five square feet (at least 720 square inches) and a sill no more than 44 inches above the floor.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0015

RULE TITLE: General Requirements

RULE SUMMARY: Rules pertaining to the general requirements for Regulated Subsidy Child Care facilities.

RULE TEXT:

(1) OCC records are open to the public on request. However, information protected by state or federal law will not be disclosed.

(2) The name and status of providers is public information.

(3) Information provided to OCC on applications, in records or reports, or any other written or verbal communications, shall be current, complete and accurate.

(4) Parental request or permission to waive any of the rules for Regulated Subsidy Child Care does not give the provider permission to do so.

(5) Child care children may only be in activity areas approved by OCC.

(6) If any court of law finds that any clause, phrase, or provision of these rules is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portion of these rules.

(7) The provider shall report to OCC:

(a) Any death of a child while in care, within 24 hours;

(b) Any serious injury, as defined in OAR 414-180-0010(21) within 5 calendar days after the occurrence. This does not include:

(A) Injuries for which a child is evaluated by a professional as a precaution;

(B) Injuries for which first aid is administered at the operation, but no further treatment by a medical professional is warranted: or

(C) Medical events due to routine, ongoing medical issues, such as asthma or seizures.

(c) Any animal bites to a child within 48 hours of occurrence.

(8) The provider shall release a child only to a parent(s) or another person named and identified by the parent. The provider shall verify the identification of any person who picks up a child.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0020

RULE TITLE: Right to Inspect

RULE SUMMARY: Rules pertaining to the authority granted Office of Child Care staff and parents of children in care access to the facility whenever child care children are present.

RULE TEXT:

- (1) The provider or substitute must allow a representative from the Office of Child Care access to the child care facility any time child care children are present.
- (2) The provider or substitute shall allow an inspection of all areas of the child care facility that are accessible to child care children, and a health and safety review of other areas of the child care facility to ensure the health and safety of child care children.
- (3) The provider or substitute must allow parents or legal guardians of child care children access to the child care facility during the hours their child or children are in care.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0025

RULE TITLE: Applicable Rules and Laws

RULE SUMMARY: Rules pertaining to the rules and laws from other agencies.

RULE TEXT:

(1) Any caregiver who has reason to believe that any child has suffered or is currently suffering from abuse (physical injury, mental injury, neglect that leads to physical harm, sexual abuse or exploitation, or threat of harm) must report the information to the Department of Human Services Child Welfare (DHS) or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

(2) The provider must comply with local, state and federal laws related to immunizations, child care restrictable diseases, child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0030

RULE TITLE: Marijuana, Smoking and Alcohol

RULE SUMMARY: Rules pertaining to the use and storage of marijuana, alcohol and tobacco on the child care premises.

RULE TEXT:

(1) All tobacco (cigarettes, cigars, and smokeless) and any lighted smoking instrument, including inhalant delivery systems, shall not be consumed on the child care facility premises:

(a) During business hours;

(b) Within 10 feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present; and

(c) In any vehicles where child care children are present.

(2) No one shall consume alcohol on the child care facility premises during child care hours or when child care children are present.

(3) No one shall be under the influence of alcohol on the child care facility premises during child care hours or when child care children are present.

(4) No one shall possess, use or store illegal controlled substances on the child care facility premises. No one shall be under the influence of illegal controlled substances on the child care facility premises.

(5) No one shall grow or distribute marijuana on the premises of the child care facility. No adults shall use marijuana on the child care facility premises during child care hours or when child care children are present.

(6) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence. "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0035

RULE TITLE: Record Keeping

RULE SUMMARY: Rules pertaining to the records that must be maintained.

RULE TEXT:

(1) The following records must be kept by the provider for at least one year and must be available at all times to OCC:

(a) Information from the parent(s) for each child at the time of admission:

(A) Name and birth date of the child;

(B) Date child entered care;

(C) Names, work and home telephone numbers and addresses, and the work hours of the parent(s) or legal guardian(s);

(D) The name of the school attended by the child care child;

(E) Name address and telephone number of the child's doctor and dentist;

(F) Name and telephone number of person(s) to contact in an emergency;

(G) Name and telephone number of person(s) to whom the child may be released;

(H) Health history of any problems that could affect the child's participation in child care; and

(I) Any chronic health problem(s) including allergies, the child has.

(b) Daily attendance records, including dates each child attended and arrival and departure times for each day. Times shall be recorded as the child care children arrive and depart. The record must show the children in attendance at any given time;

(c) Medications administered, including the child's name, and the date and time of dosage and the dosage amount;

(d) Injuries to a child;

(e) Child abuse reports made to the Department of Human Services Child Welfare (DHS) or a law enforcement agency; and

(f) Lead testing results for drinking water for the past 6 years.

(2) Injuries to a child which require attention from a licensed health care professional, such as a physician, EMT or nurse, must be reported to OCC within 7 days.

(3) The provider shall obtain the following written authorizations from parent(s) of each child before admission. The authorizations shall be kept current at all times.

(a) Permission for the provider to obtain emergency medical treatment for the child. The emergency medical release shall be:

(A) On a form accepted by the medical treatment facility used by the provider for emergency medical services;

(B) Immediately accessible to all caregivers.

(b) Permission to administer medications to a child;

(c) Permission for the provider to call an ambulance or take a child to an available physician or medical treatment facility;

(d) Permission to transport a child to or from school or allow a child to bus or walk to or from school or home; and

(e) Permission to take a child on a field trip or other activity away from the facility or participate in any water activity, on or off the premises.

(4) The provider shall maintain separate information and authorization forms on each child in care.

(5) Electronic records must be immediately available to OCC staff and portable for use during an emergency evacuation.

(6) A written record of meals and snacks provided by the provider must be kept for 3 weeks.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0040

RULE TITLE: Emergency Preparedness

RULE SUMMARY: Rules pertaining to the preparation and procedures for dealing with emergencies.

RULE TEXT:

- (1) A telephone in working condition must be in the child care facility.
- (2) The phone number for poison control, 9-1-1, and the facility's address must be posted in a visible location.
- (3) The provider must have a written plan for evacuating and removing children to a safe location in an emergency. The plan must be posted in the child care facility, familiar to the children and the caregivers, and practiced at least every other month and must include:
 - (a) Designation of an alternate safe location in the event of an evacuation;
 - (b) Procedures for notifying parents or other adults responsible for the children, of the relocation and how children will be reunited with their families;
 - (c) Procedures to address the needs of individual children, including infants and toddlers, children with special needs and children with chronic medical conditions;
 - (d) An acceptable method to ensure that all children in attendance are accounted for;
 - (e) Procedures for handling natural disasters (e.g. fire, earthquake, etc.) and man-caused events, such as violence at a child-care facility;
 - (f) Procedures in the event that children must shelter-in-place or if the child-care facility must be locked-down so that no one can enter or leave;
 - (g) Procedures for maintaining continuity of child care operations; and
 - (h) The written emergency plan must be given to parents of children in care.
- (4) There must be a system in place to ensure that parents can contact the provider when children are in care.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0045

RULE TITLE: Center Based Child Care Ratios

RULE SUMMARY: Rules pertaining to the required ratios for Regulated Subsidy facilities that are center based.

RULE TEXT:

(1) A center-based child care facility, that is exempt from licensing requirements, may not exceed the ratios and group sizes in Table A.

[Table attached]

(2) In a mixed-age group of children, the number of caregivers and group size shall be determined by the age of the youngest child in the group.

(3) This section applies to center-based child care defined as a child care facility located in a building constructed as other than a single-family dwelling.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0050

RULE TITLE: Supervision

RULE SUMMARY: Rules pertaining to appropriate supervision of children in care.

RULE TEXT:

(1) Children shall at all times have the full attention of the caregivers. At all times the provider or substitute provider must:

(a) Be within sight or sound of all children;

(b) Be aware of what each child is doing;

(c) Be near enough to children to respond when needed.

(d) Be physically present when there are children under the age of 36 months playing outside; and

(e) Be physically present when children between 36 months and kindergarten-age are playing outside, unless the outside play area is fully fenced and hazard free.

(2) Children out of direct visual contact shall be monitored regularly and frequently and must be in approved activity areas.

(3) There must be sufficient light in any room where children are napping or resting so that caregivers can clearly see each child.

(4) Background noise must not be so loud as to prevent sound supervision.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0055

RULE TITLE: Guidance and Discipline

RULE SUMMARY: Rules pertaining to the expected guidance and prohibited behaviors towards children in care.

RULE TEXT:

(1) The following behaviors by caregivers are prohibited:

(a) Using any form of corporal punishment, including, but not limited to: hitting, spanking, slapping, beating, shaking, pinching or other measures that produce physical pain, or threatening to use any form of corporal punishment;

(b) Using or threatening to use inappropriate forms of restraints, including, but not limited to, tying or binding;

(c) Using mental or emotional punishment, including, but not limited to, name calling, ridicule or threats;

(d) Using non-prescription chemicals for discipline or to control behavior;

(e) Confining or threatening to confine a child in an enclosed area (e.g. a locked or closed room, closet or box);

(f) Withdrawal or the threat of withdrawal of food, rest or bathroom opportunities;

(g) Yelling harshly or using profane or abusive language;

(h) Punishing a child for toileting accidents or for refusing to eat food;

(i) Engaging in any form of public or private humiliation, rejecting, terrorizing, neglecting or corrupting a child or any form of emotional abuse; and

(j) Requiring a child to remain silent or inactive for excessive periods of time or removing a child from activities or the group for excessive periods of time.

(2) Parental request or permission to use any form of behavior listed in subsection (1) of this section, does not give the provider permission to do so.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0060

RULE TITLE: Safety

RULE SUMMARY: Rules pertaining to ensuring the children in care are in a safe environment.

RULE TEXT:

- (1) The building, grounds, toys, equipment and furniture used by children must be maintained in a hazard-free condition.
- (2) Children shall be protected from fire and safety hazards. Providers must have the following protections in place:
 - (a) A stable barrier shall be installed to prevent children from falling into hazards, including, but not limited to: fireplaces, heaters and woodstoves that are in use when child care children are present;
 - (b) A secure barrier shall be placed at the top or bottom (or both, if needed) of all stairways accessible to infants and toddlers;
 - (c) Clear glass panels in doors clearly marked at child level;
 - (d) Broken toys, furniture and equipment must be removed from areas accessible to children;
 - (e) Floors must be free of splinters, large unsealed cracks, sliding rugs and other hazards;
 - (f) Devices which generate heat and are hot from recent use shall be inaccessible to children;
 - (g) All exposed electrical outlets in rooms used by preschool or younger children must have hard-to-remove protective caps or safety devices installed when the outlet is not in use;
 - (h) Extension cords shall not be used as permanent wiring;
 - (i) All appliance cords must be in good condition;
 - (j) Multiple connectors for cords shall not be used; and
 - (k) A grounded power strip outlet with a built-in over-current protection may be used.
- (3) Items of potential danger (e.g., sharp knives, medications, cleaning supplies and equipment, paints, poisonous and toxic materials, plastic bags, aerosols, detergents, tools, sharp scissors) shall be:
 - (a) Kept in the original container or labeled;
 - (b) Stored under child safety lock; and
 - (c) Kept away from food service supplies.
- (4) All alcohol, marijuana, marijuana derivatives and associated paraphernalia must be stored under

child safety lock.

(5) Painted surfaces must be in good condition, both inside and outside, to avoid exposing children to lead paint.

(6) The provider shall be aware of and protect children from any toxic or other harmful plants, shrubs, or trees.

(7) Firearms and ammunition must be kept under lock with ammunition stored and locked separately. Firearms must be kept unloaded.

(8) Pellet, paintball or BB guns must be kept unloaded and kept under child proof lock.

(9) Arrows must be kept under child proof lock.

(10) Each provider must ensure that the child care facility where care is provided meets all of the following standards:

(a) Each floor level used by a child has 2 useable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a useable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency; and

(b) Obstructions, including furniture, supplies, or any other items shall not be placed in a manner that blocks usable exits.

(11) Wading pools are prohibited for wading.

(12) Children are prohibited from using swimming pools, hot tubs, spas, portable wading pools, or other similar equipment.

(13) Water activities that involve a sprayer or spray feature using potable water that is not re-circulated or collected may be conducted by the child care facility.

(14) Hot tubs, spas and pools must be inaccessible to children by the following methods:

(a) A locking, rigid cover;

(b) A minimum 4 foot high fence and all gates and doors that allow access shall be locked;

(c) 4 foot non-climbable sides with pool ladder removed or inaccessible; or

(d) In a locked room.

(15) The provider must take precautions to protect children from vehicular traffic. The provider shall:

(a) Require drop off and pick up only at the curb or at an off-street location protected from traffic; and

(b) Assure that any adult who supervises drop-off and loading can see and assure that children are clear of the perimeter of all vehicles before any vehicle moves.

(16) Other hazards observed must be corrected.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0065

RULE TITLE: Sanitation

RULE SUMMARY: Rules pertaining to sanitation procedures for the child care environment.

RULE TEXT:

- (1) The child care facility must be a healthy environment for children.
- (2) The building, grounds, toys, equipment, and furniture must be maintained in a clean, sanitary manner.
- (3) Pre-mixed sanitizers and disinfectants that are EPA registered and meet Oregon Health Authority criteria may be used in all areas of the child care facility per manufacturer instructions.
- (4) The facility and grounds shall be kept clean and free of litter and rubbish.
- (5) All garbage, solid waste, and refuse must be disposed of regularly, in a safe and sanitary manner.
- (6) Diaper changing surfaces must not be used for any purpose other than diapering. If the diaper changing surface is not disposed of after each use, the diaper changing surface must be non-absorbent and the surface must be washed, rinsed and disinfected after each use.
- (7) All toys, equipment, and furniture used by children must be cleaned regularly and whenever soiled.
- (8) The home shall be in such condition as to prevent the infestation of rodents and insects.
- (9) Bio-contaminants including but not limited to bodily fluids and blood shall be disposed of in a manner that prevents exposure to children.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0070

RULE TITLE: Sleep

RULE SUMMARY: Rules pertaining to children that will be napping or sleeping in the child care facility and safe sleep requirements for infants.

RULE TEXT:

- (1) The following safe sleep practices must be followed:
 - (a) Each infant shall sleep in a crib, portable crib, bassinet or playpen with a clean, non-absorbent mattress. All cribs, portable cribs, bassinets and playpens must comply with current Consumer Product Safety Commission (CPSC) standards;
 - (b) Bassinets may only be used until the infant is able to roll over on their own;
 - (c) Each mattress shall:
 - (A) Fit snugly; and
 - (B) Be covered by a tightly fitting sheet;
 - (d) A clean sheet shall be provided for each child;
 - (e) Infants must be placed on their backs on a flat surface for sleeping;
 - (f) If an infant falls asleep in a place other than their crib, portable crib, bassinet or playpen, the provider must immediately move the infant to an appropriate sleep surface;
 - (g) No child shall be routinely left in a crib, portable crib, bassinet or playpen except for sleep or rest;
 - (h) There shall be no items in the crib with the infant, except a pacifier (e.g. bottles, toys, pillows, stuffed animals, blankets, bumpers);
 - (i) Swaddling or other clothing or covering that restricts the child's movement is prohibited; and
 - (j) Car seats are to be used for transportation only. Children who are asleep in a car seat must be removed upon arrival to the child care facility and placed in an appropriate sleep surface.
- (2) If the parent(s) so request, siblings may share the same bed.
- (3) The upper level of bunk beds shall not be used for children under 10 years of age.
- (4) A caregiver must be present on the same floor level as the child care children who are sleeping.
- (5) A caregiver must be awake for the arrival and departure of each child in night care.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0075

RULE TITLE: Health

RULE SUMMARY: Rules pertaining to maintaining a healthy environment for children in care.

RULE TEXT:

- (1) The child care facility has safe drinking water.
- (2) The room temperature must be at least 68 degrees Fahrenheit during the hours the child care business is conducted.
- (3) When the inside temperature exceeds 85 degrees Fahrenheit, the provider must take steps to minimize the high temperature impact on children by:
 - (a) Increased ventilation by natural or mechanical means;
 - (b) Ensuring children remain well-hydrated; and
 - (c) Adjusting activities to reduce the possibility of children over-heating.
- (4) Rooms child care children are predominantly occupying must have a combination of natural and artificial lighting.
- (5) There must be at least one flush toilet and one hand-washing sink available to children.
- (6) Children spending the night must have the opportunity to brush their teeth with an individual toothbrush and toothpaste labeled with their name.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0080

RULE TITLE: Water Supply and Lead Testing

RULE SUMMARY: Rules pertaining to the availability of safe water for drinking and food preparation and testing for lead.

RULE TEXT:

- (1) The facility shall identify the location of all drinking water faucets and fixtures accessible to children or used to obtain water for preparing food, infant formula, drinking or cooking and shall sample the water from these faucets and fixtures for lead. The facility shall sample in accordance with United States Environmental Protection Agency 3T's for Reducing lead in Drinking Water in Schools: Revised guidance dated October 2006 and shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory.
- (2) Lead testing as required by 414-180-0080(1) shall be conducted within the past 6 years of the effective date of this section and no later than 6 months after the effective date of this section and at least once every 6 years.
- (3) The test results shall be kept on the facility premises at all times and a copy provided to the Office of Child care within 10 days of receiving the results.
- (4) Irrespective of test results, the facility must immediately notify all parents and guardians verbally, in writing, or by email, of the test results and post results in a prominent place in the facility where they will be seen by parents and guardians within one business day. Information provided to parents and guardians shall be in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006.
- (5) If the test results are at or above 15 parts per billion (ppb), the facility must immediately:
 - (a) Prevent children from using or consuming water from faucets or fixtures identified in 414-180-0080(1) that have test results at or above 15 ppb, supplying water from drinking water faucets or fixtures identified in 414-180-0080(1) that have test results below 15 ppb or bottled or packaged water to meet the requirements of this section;
 - (b) Within 60 days of receiving the test results, the provider shall submit a corrective action plan for approval by the OCC for any faucet or fixture that has test results at or above 15 ppb, following the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006;
 - (c) The facility must implement corrective actions or remedies identified in the approved plan within 30 days of OCC approval; and
 - (d) The facility must conduct follow-up sampling and results must demonstrate lead below 15 ppb before the facility may resume use of faucets or fixtures identified in 414-180-0080(1) that previously tested at or above 15 ppb.
- (6) A provider may submit documented lead testing results obtained within 6 years immediately

preceding the effective date of this section to the OCC, and request a waiver of this requirement for a period not to exceed 6 years from the date of the test results submitted. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-180-0080(1).

(7) Irrespective of results obtained in accordance with 414-180-0080(1), actions to protect children from exposure to lead contamination in drinking water include:

(a) Flushing pipes before using to prepare food, infant formula, drinking or cooking by running the tap each time before use until the water is noticeably cooler (30 seconds to 2 minutes); and

(b) Using only cold water from drinking water faucets or fixtures identified in 414-180-0080(1) that have test results below 15 ppb for preparing food, infant formula, drinking or cooking.

(c) Boiling water does not remove lead from water and is not considered an acceptable action to protect children from exposure to lead contamination in drinking water.

(8) Existing programs must submit test results by September 30, 2018.

(9) If a provider replaces any faucets or fixtures identified pursuant to OAR 414-180-0080(1) at any time, the provider must notify OCC and sample the water from these faucets and fixtures pursuant to the requirements of OAR 414-180-0080(1) and provide the test results to the OCC within 10 days of receiving the results. The provider may not allow access to the replaced faucet or fixture until the OCC approves access.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0085

RULE TITLE: Illness and Injury

RULE SUMMARY: Rules pertaining to procedures for illnesses and injuries that may occur in child care.

RULE TEXT:

- (1) Except for mild cold symptoms that do not impair a child's daily functioning, sick children shall not be in care.
- (2) A provider shall not admit or retain in care, except with the written approval of the local health office, a child who:
 - (a) Is diagnosed as having or being a carrier of a child care restrictable disease, as defined in Oregon Health Authority administrative rule; or
 - (b) Has one of the following symptoms or combination of symptoms or illness;
 - (A) Fever over 100°F by ear thermometer or forehead scanner;
 - (B) Diarrhea (more than one abnormally loose, runny, watery or bloody stool);
 - (C) Vomiting;
 - (D) Nausea;
 - (E) Severe cough;
 - (F) Unusual yellow color to skin or eyes;
 - (G) Skin or eye lesions or rashes that are severe, weeping, or pus-filled;
 - (H) Stiff neck and headache with one or more of the symptoms listed above;
 - (I) Difficult breathing or abnormal wheezing; or
 - (J) Complaints of severe pain.
- (3) A child who, after being admitted into child care, shows signs of illness, as defined in subsection (2) of this rule, whenever possible will be separated from the other children, and the parent(s) notified and asked to remove the child from the child care facility as soon as possible.
- (3) If a child has mild cold symptoms that do not impair their normal functioning, the child may remain in the child care facility and the parent(s) notified when they pick up their child.
- (4) Section 2 of this rule does not apply when the provider is caring only for children from the same family and no other unrelated child care children are present, except that the provider shall notify the

parent if a child who, after being admitted into child care, shows signs of illness.

(5) If a child with allergies is enrolled and requires a specific care plan, such a plan shall be developed in writing between the provider and parents, and, if necessary, outside specialists. All caregivers who come in contact with that child shall be fully aware of the plan.

(6) Parents must be notified if their child is exposed to an outbreak of a communicable disease, excluding colds.

(7) All caregivers shall take appropriate precautions to prevent shaken baby syndrome and abusive head trauma.

(8) First aid supplies and a chart or handbook of first aid instructions shall be maintained in one identified place and kept out of reach of children.

(9) The first aid supplies shall include: adhesive bandages, adhesive tape, sterile gauze pads, soap or sealed antiseptic towelettes or solution to be used as a wound cleaning agent, a solution for disinfecting after a blood spill, a sanitary temperature taking device.

(10) Any impact to a child's head shall be reported to the child's parent(s) immediately.

(11) Injuries requiring first aid shall be reported in writing to the child's parent(s) on the day of occurrence.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

AMEND: 414-180-0090

RULE TITLE: Medications

RULE SUMMARY: Rules pertaining to the storage and administration of medications in Regulated Subsidy child care.

RULE TEXT:

- (1) Prescription and non-prescription medication shall only be given to a child if the provider has written authorization from the parent.
- (2) Prescription medications must be in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, and the physician's name.
- (3) Non-prescription medications or topical substances must be labeled with the child's name.
- (4) Prescription and non-prescription medications must be properly labeled and stored.
- (5) Medication requiring refrigeration must be kept in a separate, tightly covered container, marked "medication," in the refrigerator.
- (6) Parents must be informed daily of any medications given to their child.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0095

RULE TITLE: Sunscreen

RULE SUMMARY: Rules pertaining to the use of sunscreen on children in care.

RULE TEXT:

- (1) Child care children shall be protected from excessive exposure to the sun by using sunscreen or other methods.
- (2) Sunscreen may be used for child care children under the following conditions:
 - (a) Providers must obtain written parental authorization prior to using sunscreen;
 - (b) If sunscreen is supplied for an individual child care child, the sunscreen must be labeled with the child's first and last name and must be used for only that child;
 - (c) If using sunscreen, providers must reapply sunscreen every 2 hours while the child care children are exposed to the sun;
 - (d) Providers shall not use aerosol sunscreens on child care children; and
 - (e) Sunscreen shall not be used on child care children younger than 6 months.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0105

RULE TITLE: Animals

RULE SUMMARY: Rules pertaining to the presence and handling of animals.

RULE TEXT:

- (1) Any animal at the child care facility shall be in good health and show no signs of carrying any diseases.
- (2) Children may not have direct contact with any potentially aggressive animals.
- (3) Any animal at the child care facility accessible to children shall be a friendly companion.
- (4) Caregivers must be physically present when children are interacting with animals.
- (5) Proof of current rabies vaccinations is required for dogs.
- (6) Dogs and cats shall be kept free of fleas, ticks and worms.
- (7) Exotic animals, including, but not limited to: reptiles, amphibians and monkeys, as well as hook-beaked birds, chickens, rodents and ferrets are prohibited unless they are housed in and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.
- (8) Animal litter boxes shall not be located in areas accessible to children or areas used for food storage or preparation.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0110

RULE TITLE: Nutrition

RULE SUMMARY: Rules pertaining to appropriate nutrition for children in care.

RULE TEXT:

- (1) Meals and snacks must follow the USDA Child and Adult Care Food Program guidelines.
- (2) Foods must be stored and maintained at the proper temperature.
- (3) All food and drink served by the provider shall be selected, stored, prepared, and served in a sanitary manner.
- (4) No liquids, other than milk, formula, water, and 100 percent fruit juice, shall be served.
- (5) Water shall be freely available to children.
- (6) The provider must provide or ensure the availability of meals and snacks appropriate for the ages and needs of the children served.
- (7) Honey or foods containing honey shall not be served to children under 12 months of age.
- (8) Children who cannot feed themselves shall be held or, if able to sit alone, fed in an upright position.
 - (a) Infants up to 6 months of age shall be held or sitting up in a caregiver's lap for bottle feeding;
 - (b) Bottles shall never be propped. The child or a caregiver shall hold the bottle; and
 - (c) Infants no longer being held for feeding shall be fed in a manner that provides safety and comfort.
- (9) Children of any age shall not be laid down with a bottle.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0120

RULE TITLE: Handwashing

RULE SUMMARY: Rules pertaining to appropriate handwashing procedures.

RULE TEXT:

(1) All caregivers and children must wash their hands with soap and warm, running water:

(a) Before handling food;

(b) Before assisting with feeding;

(c) Before and after eating;

(d) After diapering;

(e) After using the toilet;

(f) After assisting someone with toileting;

(g) After nose wiping;

(h) After playing outside; and

(i) After touching animals, other than dogs and cats, and after handling pet toys.

(2) Hand sanitizers shall not replace hand washing. If hand sanitizers are present in the child care facility, they shall be kept out of children's reach and shall not be used on children.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0130

RULE TITLE: Program and Care of Children

RULE SUMMARY: Rules pertaining to the attention and care given to children in care.

RULE TEXT:

- (1) The provider and any caregivers must give the children's needs first priority, ensuring they get appropriate care and attention.
- (2) Immediate attention shall be given to the emotional and physical needs of the children.
- (3) Providers must make available activities, materials, and equipment for both indoor and outdoor play that provide a variety of experiences geared to the ages and abilities of the child(ren) with a balance of active and quiet play.
- (4) There shall be an outdoor activity area that children can reach safely.
- (5) Child care children shall not be exposed to more than 90 minutes of screen time per day. All media exposure must be developmentally and age appropriate. Screen time is defined as time spent using a device such as a computer, television, or games console.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

ADOPT: 414-180-0140

RULE TITLE: Transportation

RULE SUMMARY: Rules pertaining to the safe transportation of children in care.

RULE TEXT:

(1) When transportation is provided by or arranged for by the provider, the following requirements must be met:

(a) Proof of appropriate insurance;

(b) Driver's shall:

(c) Be at least 18 years of age;

(d) Hold a current and valid driver's license as required by the Oregon Department of Motor Vehicles (DMV); and

(e) Shall operate the vehicle in a safe manner.

(2) The vehicle shall be:

(a) In compliance with all applicable state and local motor vehicle laws; and

(b) Maintained in a safe operating condition.

(3) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle.

(4) Children shall leave the vehicle on the same side of the street as the building they will enter.

(5) Drivers delivering children to their homes or other destinations shall not depart until the child has been received by an authorized person.

(6) No child shall be left unattended inside or outside a vehicle.

(7) The following vehicles may be used to transport child care children:

(a) A vehicle manufactured to carry fewer than ten passengers;

(b) A school bus or a multi-function school activity bus;

(c) A vehicle manufactured to carry ten or more passengers that was manufactured in 2010 or after; or

(d) A vehicle manufactured to carry ten or more passengers that was manufactured before 2010, with the following conditions:

(A) Travel speed may not exceed 50 mph; and

(B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on the form provided by the Early Learning Division or on a form provided by the inspector which contains the same information. All deficiencies must be corrected before the vehicle can be used for child care transportation.

STATUTORY/OTHER AUTHORITY: ORS 326.425(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.505

