

NOTICE OF PROPOSED RULEMAKING

CHAPTER 414

OREGON DEPARTMENT OF EDUCATION, EARLY LEARNING DIVISION

FILING CAPTION: Administrative Rules governing Registered Family child care

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 St NE

1st Floor Auditorium

Salem, OR 97301

SPECIAL INSTRUCTIONS:

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

NEED FOR THE RULE(S):

ORS 329A directs the Early Learning Council to write administrative rules regulating certified child care centers to ensure the health and safety of children cared for outside their own homes. Since 2012, the Early Learning Council (Council) has been charged with oversight of regulated child care programs, including certified child care centers. Administrative rules are needed to establish a process for determination of a center's eligibility to be licensed and receive certification.

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 certain areas of the revised rules. The increase in required ongoing professional development from 15 hours annually to 18 hours may impact some staff of certified centers. Also the inclusion of rules pertaining to the testing of lead in water used for drinking and food preparation will result in fiscal impact to certified centers. Requiring testing for every licensed 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 Certified Child Care Center, 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 Center 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).

(1) The rules for lead testing will require the Early Learning Division and the Oregon Health Authority to work collaboratively to update and translate written materials as part of a training and outreach plan; (2)(a) Approximately 1342 certified facilities; (2)(b) Minimal impact due to added record keeping and posting notices for parents; (2)(c) No additional costs for professional services, equipment supplies, labor and increased administration for the majority of proposed rules. The full impact for required lead testing is unknown at this time. An outcome of the proposed testing requirement will be to provide a clearer understanding of the scope, scale and costs of mitigating and preventing exposure to lead contamination through water consumption.

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:

414-205-0000, 414-205-0005, 414-205-0010, 414-205-0015, 414-205-0020, 414-205-0025, 414-205-0035, 414-205-0040, 414-205-0045, 414-205-0055, 414-205-0065, 414-205-0075, 414-205-0085, 414-205-0090, 414-205-0095, 414-205-0100, 414-205-0105, 414-205-0110, 414-205-0115, 414-205-0120, 414-205-0125, 414-205-0130, 414-205-0135, 414-205-0140, 414-205-0145, 414-205-0150, 414-205-0155, 414-205-0160, 414-205-0165, 414-205-0170, 414-205-0175, 414-205-0180, 414-205-0185, 414-205-0190, 414-205-0195, 414-205-0200, 414-205-0205, 414-205-0210, 414-205-0215, 414-205-0220, 414-205-0225, 414-205-0230, 414-205-0235

AMEND: 414-205-0000

RULE TITLE: Purpose

RULE SUMMARY: Rules pertaining to the purpose of the administrative rules for Registered Family Child Care Homes.

RULE TEXT:

(1) Oregon Administrative Rules (OAR) 414-205-0000 through 414-205-0235 are the Office of Child Care's (OCC) minimum requirements for registering family child care providers. The purpose of these

rules is to protect the health, safety, and well-being of children when cared for outside their own homes.

(2) Registration is required for persons who provide child care:

(a) On other than an occasional basis; and

(b) To more than 3 children from more than one family at any one time, other than the person's children subject to the limits in OAR 414-205-0105.

(3) Any family child care provider exempt from registration may apply for registration.

(4) Individuals who are not enrolled in the Central Background Registry because of removal, denial for cause, or voluntary surrender in lieu of legal action may only care for their own children or children related within the fourth degree as determined by civil law, pursuant to ORS 329A.252.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.260, 329A.330

ADOPT: 414-205-0005

RULE TITLE: Exemptions from Licensing

RULE SUMMARY: Rules pertaining to the conditions when a child care program may be exempt from licensing requirements.

RULE TEXT:

Individuals are exempt from registration when they:

- (1) Are the child's parent, legal guardian or a person acting in place of the parent;
- (2) Provide care in the home of the child;
- (3) Are related to the child by blood, marriage or adoption within the fourth degree as determined by civil law;
- (4) Provide care to 3 or fewer children, not including the provider's children subject to the limits in OAR 414-205-0105 except as provided in 414-205-0000(4);
- (5) Are a member of the child's family unit, as determined by OCC on a case-by-case basis;
- (6) Provide care on an occasional basis by a person not ordinarily engaged in providing child care except as provided in 414-205-0000(4). "Occasional" means infrequently or intermittently, including but not limited to care that is provided during summer or other holiday breaks when children are not attending school, but not to exceed 70 calendar days in a year;
- (7) Provide care to children from one family, not including the provider's children except as provided in 414-205-0000(4); or
- (8) Provide care for preschool children that is primarily educational for 4 hours or less per day and where no preschool age child is present at the facility for more than 4 hours per day, except as provided in 414-205-0000(4).
- (9) Operate as a parent cooperative for no more than 4 hours a day.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0010

RULE TITLE: Definitions

RULE SUMMARY: Definitions of terms used in the rule set for Registered Family Child Care Homes.

RULE TEXT:

The following words and terms, when used in OAR 414-205-0000 through 414-205-0235, have the following meanings:

- (1) "Activity Area" means the area of the home that is available, during all the hours of operation, for the children's activities. This area excludes the food preparation area of the kitchen, bathrooms, storage areas, and those parts of rooms occupied by heating stoves, furniture and stationary equipment not used by children.
- (2) "Caregiver" means any person, including the provider, who cares for the children in the registered family child care home and works directly with the children, providing care, supervision and guidance.
- (3) "Central Background Registry" (CBR) means OCC's Registry of individuals who have been approved to be associated with a child care facility in Oregon pursuant to ORS 329A.030 and OAR 414-061-0000 through 414-061-0120.
 - (a) "CBR Enrollment" means approval for a 5 year period to be enrolled in the CBR following an Oregon State Police criminal records check, child abuse and neglect records check, checks of adult protective services and foster care certification and an FBI records check.
 - (b) "CBR Conditional Enrollment" means temporary approval to be enrolled in the CBR following a Oregon State Police records check and child abuse and neglect records check but prior to receipt by OCC of the results of the required FBI records check.
- (4) "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.
- (5) "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 child does not reside in the home and the provider has supervisory responsibility for the child in the temporary absence of the parent.
- (6) "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.
- (7) "Child Care Facility" means any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.

- (8) "Civil Penalty" means a fine imposed by OCC on the provider for violation on these rules.
- (9) "Communicable Disease" means a condition caused by an infectious agent or its toxins.
- (10) "Custodial parent" is the parent who is given the physical or legal custody of the child by court order.
- (11) "Disinfecting" means using a process for destroying or irreversibly inactivating harmful organisms, including bacteria, viruses, germs and fungi.
- (12) "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.
- (13) "Guidance and Discipline" means the on-going process of helping children develop self-control and assume responsibility for their own acts.
- (14) "Infant" means a child who is at least 6 weeks of age up to 12 months of age.
- (15) "Kindergarten-Age Child" means a child eligible to attend kindergarten in a public school. A kindergarten-age child is considered a school-age child. This does not include the summer months prior to the start of the school year.
- (16) "License" means the document that is issued by OCC to a registered family child care home pursuant to ORS 329A.280. License may also be referred to as registration.
- (17) "Night Care" means care given to a child who sleeps at the family child care home for all or part of the night.
- (18) "OCC" means the Office of Child Care, Early Learning Division of the Department of Education.
- (19) "Oregon Registry" means the professional development registry at the Oregon Center for Career Development in Childhood Care and Education at Portland State University that stores, tracks and recognizes the training and education of individuals who work in childhood care and education.
- (20) "Oregon Registry Online" (ORO) means the statewide database that stores all submitted training and education to be verified for use by the Office of Child Care.
- (21) "Outbreak of Communicable Disease" means 2 cases from separate households associated with a suspected common source.
- (22) "Parent" means parent(s), custodian(s), or guardian(s) exercising physical care and legal custody of the child.
- (23) "Premises" means the location that is identified on the application, including indoors and outdoors, all out-buildings, and any space not directly used for child care.

- (24) "Preschool-Age Child" means a child who is 36 months of age up to eligible to attend kindergarten in a public school.
- (25) "Provider" means a resident of the registered family child care home who is responsible for the children in care; is the children's primary caregiver; and the person whose name is on the certificate of registration.
- (26) "Registered Family Child Care Home" means the residence of the provider, who has a current Family Child Care Registration at that address and who provides care in the family living quarters.
- (27) "Registration" means the document a family child care provider is issued by OCC to operate a family child care home where care is provided in the family living quarters of the provider's home pursuant to ORS 329A.330 and OAR 414-205-0000 through 414-205-0235. Registration is limited to one provider at one address. Registration may also be referred to as a license.
- (28) "Restrictable Disease" means an illness or infection that would prohibit the child from attending child care.
- (29) "Risk assessed value" means the value (low, medium, high or extreme) assigned to a rule based on the likelihood that harm would occur and the probable severity of harm to a child if that rule were violated.
- (30) "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.
- (31) "School-Age Child" means a child eligible to attend kindergarten or above in public school. This does not include the months prior to the start of the kindergarten school year.
- (32) "Serious Complaint" means a complaint filed against:
- (a) A registered family child care provider by a person who alleged that:
 - (A) Children are in imminent danger;
 - (B) There are more children in care than allowed by law;
 - (C) Provider is engaging in behavior prohibited under OAR 414-205-0115(6);
 - (D) Children are not being supervised;
 - (E) Multiple or serious fire, health or safety hazards are present in the home;
 - (F) Extreme unsanitary conditions are present in the home; or

(G) Adults are in the home who are not enrolled in the CBR.

(b) An individual providing child care, as defined by ORS 329A.250(4), who is not a registered family child care provider and is caring for more children than is allowed by law.

(33) "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.

(34) "Substitute Provider" means a person who acts as the children's caregiver in the registered family child care home in the temporary absence of the provider.

(35) "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.

- (36) "Toddler" means a child who is at least 12 months of age but under 36 months of age.
- (a) "Younger Toddler" means a child who is at least 12 months of age but under 24 months of age.
- (b) "Older toddler" means a child who is at least 24 months of age but under 36 months of age.
- (37) "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.
- (38) "Useable Exit" means an unobstructed door or window through which the provider and the children can evacuate the home in case of a fire or emergency. Doors must be able to be opened from the inside without a key. A clear path must exist to all useable exits.
- (a) For homes 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 5 square feet (at least 720 square inches) and a sill no more than 48 inches above the floor.
- (b) For homes 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 5 square feet (at least 720 square inches) and a sill no more than 44 inches above the floor.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A

ADOPT: 414-205-0015

RULE TITLE: General Licensing

RULE SUMMARY: Rules pertaining to general licensing requirements for Registered Family Child Care Homes.

RULE TEXT:

- (1) For purposes of these rules, the determination of compliance or noncompliance shall be made by OCC.
- (2) Child care children may only be in activity areas approved by OCC.
- (3) A provider has the right to request a review of any finding made by OCC.
- (4) The provider has the right to appeal any decision to deny, suspend, or revoke registration or to impose a civil penalty, subject to the provisions of Chapter 183, Oregon Revised Statutes.
- (5) Information provided to OCC on applications, in records or reports, or any other written or verbal communication, shall be current, complete and accurate.
- (6) Registered providers shall comply with all conditions placed on their license.
- (7) Unless otherwise stated, these rules apply only when child care children are in care.
- (8) The registered family child care home shall immediately notify all parents of any closure of the active license.
- (9) Parental request or permission to waive any of the rules for registered family child care homes does not give the provider permission to do so.
- (10) Rules that impact a child's health and safety have been assessed for risk taking into consideration the probability of harm and the potential severity of harm. A risk assessed value has been assigned to rules.
- (11) Circumstances of a violation, that increase the level of risk to children, may increase the risk assessed value. Circumstances include, but are not limited to: imminent danger to a child, extreme disregard for ratio, supervision, discipline, CBR enrollment, hazards, sanitation and repeat rule violations.
- (12) OCC registration records are open to the public on request. However, information protected by state or federal law will not be disclosed.
- (13) The name, address, telephone number, and registration status of providers is public information. However, OCC may withhold from the public a provider's address and telephone number if the provider makes a written request documenting that disclosure of the address or telephone number would endanger them or a family member living in the home (OAR 137-004-0800). The request must be on a form supplied by OCC.

(14) 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.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0020

RULE TITLE: Application

RULE SUMMARY: Rules pertaining to the application process and application requirements.

RULE TEXT:

- (1) The applicant must apply for registration on the forms provided by OCC. The original form(s) must be submitted to OCC for processing.
- (2) Persons submitting new applications must attend a family child care overview session prior to submitting their application to OCC.
- (3) Persons interested in submitting an application must meet the training requirements outlined in OAR 414-205-0020(16).
- (4) A completed application is required:
 - (a) For a new registration;
 - (b) For renewing a registration; and
 - (c) For reopening a registration.
- (5) An application for renewal and payment of the required fee must be received by the Office of Child Care at least 30 days prior to the expiration date of the current registration. Unless the current registration has been officially revoked, the certificate remains active until OCC has taken action.
- (6) When an application for renewal and payment of the required fee is received by OCC less than 30 days prior to the expiration date of the current certificate, the certificate will expire unless the renewal process is completed.
- (7) There is a non-refundable fee of \$30 for each application. If the provider submits documentation that the provider's family income is below 100 percent of the Federal Poverty Level, the fee may be reduced.
- (8) All civil penalties must be paid in full before the Office of Child Care will process the application.
- (9) To determine if requirements are met, the applicant may be required to supply additional information or permit OCC, a fire marshal, or a public health official to assess the home and review child care records.
- (10) An applicant shall identify the location of drinking water faucets and fixtures used to obtain water to prepare food, infant formula, drinking or cooking, and dish washing and the location of bathroom, diaper changing, bathing and handwashing faucets and fixtures that are not used for drinking water.
- (11) An application for registration shall be accompanied by lead testing results for drinking water at

all drinking water faucets and fixtures identified in OAR 414-205-0020(10). Results shall be those obtained within the past 6 years.

(12) An applicant shall have all drinking water faucets and fixtures identified in OAR 414-205-0020(10) tested for lead.

(13) An applicant shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory and shall test in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006.

(14) An applicant 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 414-205-0020(13).

(15) Providers must satisfactorily complete an on-site health and safety review conducted by OCC prior to issuance of a new, renewal or reopen registration. The review will ensure that the provider is in compliance with the rules related to health, safety and sanitation.

(16) When a person submits a new application for registration as a family child care provider, OCC shall, prior to approving the registration, receive evidence from the person that the person has:

(a) Completed the family child care overview session;

(b) A current certification in first aid and pediatric CPR.

(A) CPR training must have practical hands-on instruction.

(B) CPR courses that involve an on-line component with hands-on instruction may be accepted.

(C) Strictly on-line CPR training is not acceptable.

(c) A current food handler certification approved by the Oregon Health Authority or OCC;

(d) Completed a minimum of 2 hours of training on recognizing and reporting child abuse and neglect that is specific to Oregon law.

(e) Completed OCC approved health and safety training.

(f) Completed OCC approved safe sleep training.

(17) When a registered family child care provider submits a renewal application, OCC shall,

prior to approving it, receive evidence from the provider that the provider has:

- (a) A current certification in first aid and pediatric CPR.
 - (A) CPR training must have practical hands-on instruction.
 - (B) CPR courses that involve an on-line component with hands-on instruction may be accepted.
 - (C) Strictly on-line CPR training is not acceptable.
 - (b) A current food handler certification approved by the Oregon Health Authority or OCC;
 - (c) Completed a minimum of 15 hours of training. The training must be related to the core knowledge categories in the Oregon Registry.
 - (A) At least 8 clock hours of the 15 hours of training must be in child development or early childhood education;
 - (B) At least 2 clock hours of the 8 hours must be in the Core Knowledge Category of Understanding and Guiding Behavior (UGB);
 - (C) A training on recognizing and reporting child abuse and neglect will be accepted after 5 years, and every 5 years thereafter, as part of the 15 clock hours of training required for licensing, but will not be accepted as part of the required child development training hours.
 - (c) Completed OCC approved safe sleep training. If the training is not complete at the time of application, it must be completed by January 1, 2019.
- (18) When a person submits a reopen or address change application, OCC shall, shall prior to approving it, receive evidence from the individual that the individual has:
- (a) A current certification in first aid and pediatric CPR;
 - (A) CPR training must have practical hands-on instruction;
 - (B) CPR courses that involve an on-line component with hands-on instruction may be accepted;
 - (C) Strictly on-line CPR training is not acceptable;
 - (b) A current food handler certification approved by the Oregon Health Authority or OCC;
 - (c) Documentation that individual has 15 hours of training related to the Oregon Registry core knowledge categories since the individual's last active child care license was issued;
 - (d) If the individual was previously licensed for less than 2 years, the training requirements will be prorated at 4 hours of training for each 6 months of the previous license period;

- (e) If the 15 hours of training are pro-rated, the requirement to have 8 hours of training in child development or early childhood education does not apply;
- (f) A minimum of 2 hours of training on recognizing and reporting child abuse and neglect based on Oregon law;
- (g) Completed OCC approved health and safety training; and
- (h) Completed OCC approved safe sleep training. If the reopen is the result of an address change, the person must complete the OCC approved safe sleep training by January 1, 2019.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260, 329A.330, 329A.440

ADOPT: 414-205-0025

RULE TITLE: Training

RULE SUMMARY: Rules pertaining to the minimum training requirements needed to operate a Registered Family Child Care Home.

RULE TEXT:

- (1) Training must have occurred during the 24 months preceding the renewal date.
- (2) All training must be verified by ORO and at least one hour in duration.
- (3) During the first licensing period, the provider is required to complete a minimum of 4 hours in the core knowledge category of Program Management as part of their 15 hours of training or provide verification of equivalent training in ORO.
- (4) Providers and applicable caregivers shall complete required training as stated in 414-205-0020(16)(17) and (18).
- (5) The following core knowledge categories are accepted for the child development and early childhood education requirement: Diversity (D), Family and Community Systems (FCS), Human Growth and Development (HGD), Health Safety and Nutrition (HSN), Learning Environments and Curriculum (LEC), Observation and Assessment (OA), Special Needs (SN), and Understanding and Guiding Behavior (UGB).
- (6) OCC will accept repeat training one additional time if it is a Set 2 (intermediate) or Set 3 (advanced) training as described by the Oregon Registry and it is not taken within the previous 2 years.
- (7) While the registered family child care license is active, the provider must maintain current certification in first aid, pediatric CPR and food handler training.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0035

RULE TITLE: Right to Inspect

RULE SUMMARY: Rules pertaining to the authority granted to Office of Child Care staff to have access to the premises 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 premises any time child care children are present.
- (2) The provider or substitute shall allow an inspection of all areas of the facility that are accessible to child care children, and a health and safety review of other areas of the 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 home during the hours their child(ren) are in care.
- (4) OCC staff may conduct an unannounced monitoring visit at least once annually.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A

AMEND: 414-205-0040

RULE TITLE: Applicable Rules and Laws

RULE SUMMARY: Rules pertaining to the rules and laws of other agencies that a Registered Family Child Care Home must comply with.

RULE TEXT:

- (1) Any caregiver who has reason to believe that any child has suffered 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, 7 days a week.
- (2) The provider must comply with local, state and federal laws related to child safety systems and seat belts in vehicles and bicycle safety.
- (3) The provider shall comply with Oregon Health Authority's administrative rules relating to:
 - (a) Immunization of children;
 - (b) Reporting communicable diseases; and
 - (c) Restrictable diseases.
- (4) As required by Oregon civil rights law, ORS Chapter 659, the provider shall not discriminate in employment on the basis of race, color, gender, marital status, religion, national origin, age, or because of a mental or physical handicap unrelated to specific job performance.
- (5) If an applicant or a provider wishes to provide child foster care, the provider must receive approval from OCC and DHS, prior to placement of the foster child(ren).

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A

ADOPT: 414-205-0045

RULE TITLE: Issuance of License

RULE SUMMARY: Rules pertaining to the issuance of the Registered Family Child Care Home license.

RULE TEXT:

- (1) The home in which child care is provided must be the residence of the provider.
- (2) A garage or other outbuildings may be used for child care if they have been converted to a habitable space as determined by local jurisdiction.
- (3) A registration shall not be issued to a provider who holds a medical marijuana card, or who grows or distributes marijuana from their premises.
- (4) The registration is valid for a maximum of 2 years. The registration period begins with the effective date shown on the certificate of registration.
- (5) A provider may not care for more than 3 children, other than the provider's own children, at any one time prior to receiving a certificate of registration from OCC.
- (6) A registration applies to only the person and address on the certificate of registration and is not transferable to another location or individual.
- (7) Registration is limited to one provider per residential address.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0055

RULE TITLE: General Requirements

RULE SUMMARY: Rules pertaining to the general requirements for the provider and other caregivers in the Registered Family Child Care Home.

RULE TEXT:

- (1) The registered provider and any substitute provider shall:
 - (a) Be at least 18 years old;
 - (b) Have competence, sound judgment and self-control when working with children, and
 - (c) Be mentally, physically and emotionally capable of performing duties related to child care.
- (2) Any caregiver with evidence of a child care restrictable disease or symptom of physical illness that poses a threat to the health or safety of children shall be relieved of their duties.
- (3) Any caregiver with evidence of a mental incapacity that poses a threat to the health or safety of children shall be relieved of their duties.
- (4) No one shall have access to child care children or be on the premises who has demonstrated behavior that may have a detrimental effect on a child.
- (5) The provider shall have no other employment, either in or out of the home, during the hours children are in care.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0065

RULE TITLE: Substitutes - Qualifications and Responsibilities

RULE SUMMARY: Rules pertaining to the qualifications and responsibilities of substitute providers.

RULE TEXT:

Prior to substituting for the provider, a caregiver must:

- (1) Be familiar with the requirements for registration and agree to comply with them;
- (2) Have current certification in first aid and pediatric CPR;
 - (a) CPR training must have practical hands-on instruction;
 - (b) Strictly online training is not acceptable;
 - (c) CPR courses that involve an on-line component with hands-on instruction may be acceptable.
- (3) Have completed OCC approved health and safety training;
- (4) Have completed OCC approved safe sleep training;
- (5) Have completed a minimum of 2 hours of training on recognizing and reporting child abuse and neglect that is specific to Oregon law; and
- (6) Have current food handler's certification approved by the Oregon Health Authority or OCC, if preparing or serving food to children.
- (7) Comply with all the requirements placed on the provider, except those in OAR 414-205-0020(2)(17) and (18).

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0075

RULE TITLE: CBR Enrollment

RULE SUMMARY: Rules pertaining to enrollment in the Office of Child Care's Central Background Registry.

RULE TEXT:

- (1) The provider and other residents of the premises, 18 years of age or older must be enrolled in OCC's CBR prior to the issuance of a registration.
- (2) Residents of the premises who are under 18 years of age must be enrolled in the CBR by their 18th birthday.
- (3) Registration shall be denied, suspended or revoked if the provider has been removed, denied or suspended from the CBR.
- (4) Registration may be denied, suspended or revoked if a resident of the home other than the provider has been removed, denied or suspended from the CBR.
- (5) The provider must receive confirmation from OCC that an individual 18 years of age or over, is enrolled or conditionally enrolled in the CBR before the individual can:
 - (a) Reside on the premises;
 - (b) Stay overnight on the premises for longer than 14 consecutive days, not to exceed a total of 30 days in a calendar year;
 - (c) Assist the provider; or
 - (d) Volunteer in the child care program.
- (6) Individuals with conditional enrollment in the CBR shall not have unsupervised access to children.
- (7) Any visitor to the home or other adult who is not enrolled in the CBR shall not have unsupervised access to children.
- (8) The provider shall have a written plan to ensure that individuals who are not enrolled or conditionally enrolled in the CBR and are on the child care premises shall not have unsupervised access to children.
- (9) The provider shall maintain a log of arrival and departure times of all individuals 18 and older who are not enrolled or conditionally enrolled in the CBR and enter the home while child care children are present, excluding parents who are dropping off or picking up their children.
- (10) The provider, substitutes and other individuals that are required to be enrolled in the CBR must maintain current enrollment in the CBR at all times while the registered family child care license is

active.

(11) Individuals whose CBR enrollment has been revoked, denied or suspended, may not live in the home; be on the premises during child care hours; or have contact with child care children.

(12) If any person, who is enrolled in the CBR, has been charged with, arrested for, or a warrant is out for any of the crimes which OCC has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, registration may be denied or suspended until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in or reside in the home, or have access to children in the home.

(13) If additional information is needed to assess a person's ability to care for children or to have access to children, OCC may require references, an evaluation by a physician, counselor, or other qualified person, or other information.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0085

RULE TITLE: Marijuana, Smoking and Alcohol

RULE SUMMARY: Rules pertaining to the possession and use of marijuana, alcohol and tobacco in the Registered Family Child Care Home.

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 home 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) Notwithstanding OAR 414-205-0015(7), no one shall possess, use or store illegal controlled substances on the registered family child care home premises.
- (3) Notwithstanding OAR 414-205-0015(7), no one shall grow or distribute marijuana on the premises of the registered family child care home.
- (4) No one shall consume alcohol or use marijuana or marijuana infused products on the premises of the registered family child care home during the hours the child care business is conducted or when child care children are present.
- (5) No person who is "under the influence," shall have contact with child care children. "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 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0090

RULE TITLE: General Home Management Information

RULE SUMMARY: Rules pertaining to general management information for the Registered Family Child Care Home.

RULE TEXT:

- (1) The Certificate of Registration must be posted in the family child care home in an area where it can be viewed by parents.
- (2) Water testing results, in accordance with OAR 414-205-0020(12) must be posted in a prominent place in the family child care home where it can be seen by parents and guardians. 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.
- (3) The provider must notify parents if the children will be away from the home for any part of the day for visits, field trips or any other activity off the premises and the name of the caregiver that will be caring for the children.
- (4) The provider must notify parents if there will be a substitute provider and the substitute's name. In the event of an emergency, a good faith effort will be made to notify parents that a substitute will be caring for the children.
- (5) 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 414-205-0010(33) 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 facility, 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 damage to the building that affects the provider's ability to comply with these requirements, within 48 hours of the occurrence.
 - (d) Any animal bites to a child within 48 hours of occurrence.
- (6) The provider shall require the person bringing the child to the registered family child care home remain with the child until the child is accepted by a caregiver.
- (7) 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.

(8) If a school-age child arrives at or leaves the home without a parent, there shall be arrangements in advance, in writing, from the parent(s) for the arrival and departure times and what the provider will do if the child has not arrived by the expected time.

(9) No child younger than 6 weeks of age can be in care in a family child care home. This does not include the provider's child(ren).

(10) As required by state and federal civil rights laws and the Americans with Disabilities Act (ADA), the registered family child care home shall not discriminate against any child on the basis of race, religion, color, national origin, gender, marital status of parent, or because of a need for special care.

(11) Refusal by the provider to care for a child with a need for special care because of lack of related skills and degree of competence or because of structural barriers in the registered family child care home, shall not in itself establish a prima facie case of discrimination. The decision to enroll or not enroll a child shall be made on an individual basis after the child's child care needs have been assessed using information from parents and professionals who are knowledgeable about the specific disability. The provider shall record the assessment that was made for each child with special needs.

(12) If a specific plan is needed for a child with special needs, a plan shall be developed in writing between the provider, parent(s) and, if necessary, outside specialists. The provider shall be responsible for ensuring that all caregivers have knowledge of the plan and act in compliance with the plan.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0095

RULE TITLE: Record Keeping

RULE SUMMARY: Rules pertaining to the records that a Registered Family Child Care Home provider must maintain.

RULE TEXT:

- (1) The following records must be kept by the provider for at least one year, kept current at all times and must be available to OCC:
 - (a) Information from the parent(s) for each child at the time of admission:
 - (A) Name and birth date of each child;
 - (B) Date child entered care;
 - (C) Names, work and home addresses and telephone numbers 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.
 - (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) The provider shall obtain the following written authorizations from parent(s) of each child before admission. The authorizations must 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; and
 - (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 outside the home or participate in any water activity.
- (3) The provider shall maintain separate information and authorization forms on each child in care.
- (4) Electronic records must be immediately available to OCC staff and portable for use during an emergency evacuation.
- (5) With the exception of child abuse reports, the provider shall allow parent(s), upon request, to review records and reports maintained on their own children.
- (6) A written record of meals and snacks provided by the provider must be kept for 3 weeks.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0100

RULE TITLE: Emergency Preparedness

RULE SUMMARY: Rules pertaining to the preparation and response to emergencies in the Registered Family Child Care Home.

RULE TEXT:

- (1) A telephone in working condition must be in the family child care home.
- (2) There must be a system in place to ensure that parents can contact the provider when children are in care.
- (3) The phone number for poison control, 9-1-1, and the family child care home's address must be posted in a visible location.
- (4) The family child care home shall have a written plan for handling emergencies and evacuations, including, but not limited to, acute illness of a child or staff, natural disasters (e.g. fire, earthquake, etc.), man-caused events, such as violence at a child care facility, power outages, and situations which do not allow reentry to the home after evacuation. The plan must include:
 - (a) Designation of an alternate safe location in the event of evacuation;
 - (b) Procedures for notifying parents or other adults responsible for the children, of the relocation and how the 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 in the event that children must shelter-in-place or if the child-care home must be locked-down so that no one can enter or leave; and
 - (f) Procedures for maintaining continuity of child-care operations.
- (5) The written emergency plan must be given to parents of children in care.
- (6) Fire drills shall be practiced monthly.
- (7) One other aspect of the emergency response plan shall be practiced a minimum of twice a year.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A

ADOPT: 414-205-0105

RULE TITLE: Children in Care

RULE SUMMARY: Rules pertaining to the number and ages of children allowed in care at any one time.

RULE TEXT:

(1) A family child care provider may care for a maximum of 10 children under 13 years of age, or under age 18 if a child with special needs, at any one time. This includes the provider's own children, the child care children, foster children, and any other children for whom the provider is responsible.

(a) The provider may care for a maximum of 6 children preschool age or younger, including the provider's children; and

(b) The provider may care for a maximum of 2 children under 24 months of age, including the provider's children.

(2) Notwithstanding subparagraph(1) of this section, if the available space to children is 140 square feet or less, the maximum number of children in care at any one time is 6. The following shall not be counted as available space: food preparation area in the kitchen, bathrooms, hallways, heating units, storage areas, large permanent equipment or furniture and any space not useable by children.

(3) Other children, including but not limited to relatives, neighborhood children or friends of the provider's children, are included in the maximum number of 10 children allowed in care if their parents or other adults responsible for supervising them are not present in the home or are not directly supervising their own child(ren).

(4) Children visiting with their parents or other supervising adults can be in the family child care home only on an occasional basis.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0110

RULE TITLE: Supervision

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

RULE TEXT:

(1) Children shall at all times have the full attention of the provider. 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 329A.250 – 329A.450, 326.425

STATUTES/OTHER IMPLEMENTED: ORS 329A.250 – 329A.450

ADOPT: 414-205-0115

RULE TITLE: Guidance and Discipline

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

RULE TEXT:

- (1) The provider must have a written policy on guidance and discipline of child care children. The policy must be simple and understandable to the child, the parent(s) and to substitute providers.
- (2) All caregivers and parents shall be familiar with the guidance and discipline policy.
- (3) The guidance and discipline policy shall:
 - (a) Provide for positive guidance, redirection and the setting of clear boundaries;
 - (b) Be designed to help the child develop self-control, self-esteem and respect for others; and
 - (c) Be given to parents.
- (4) Only providers and substitutes shall provide guidance or discipline to child care children.
- (5) Guidance and discipline shall be fair, consistently applied, timely, and appropriate to the behavior and age of the child. Positive statements or redirection of behaviors shall be used.
- (6) 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) Unauthorized use of prescription or non-prescription drugs or 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.
- (7) Parental request or permission to use any form of behavior listed in subsection (6) of this rule, does not give the provider or substitute provider permission to do so.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0120

RULE TITLE: Indoor Space

RULE SUMMARY: Rules pertaining to the foundational requirements for indoor areas that are used for child care children.

RULE TEXT:

- (1) Rooms occupied by children must have a combination of natural and artificial lighting.
- (2) All floor levels used by children must have access to 2 useable exits to ground level.
- (3) If a basement is used for child care purposes, the requirement for 2 useable exits may be met by two of the following:
 - (a) A sliding glass door to the outside;
 - (b) A swinging door to the outside;
 - (c) A window that meets the definition of a useable exit; or
 - (d) An internal stairway to ground level that has unobstructed and direct access to the outdoors.
- (4) If a window, which meets the definition of a useable exit, is used:
 - (a) Steps must be placed under the window, inside and outside, to allow children to exit without assistance; and
 - (b) The window must be kept in good working condition.
- (5) If a window used as an exit has a window well, a mechanism must be in place to allow children to exit the window well.
- (6) Second floors (does not apply to providers registered continuously at the same address before 2009, unless the provider has moved the child care license to a new residence):
 - (a) Child care children shall not sleep on the second floor or above;
 - (b) Care shall not be provided for infants and toddlers on the second floor or above;
 - (c) Night care shall not be provided to any age children on the second floor or above;
 - (d) Care, other than night care, may be provided for preschool and school-age children on the second floor or above, if:
 - (A) There are 2 staircases to the ground level and all children are mobile enough to exit safely; or
 - (B) The designated fire marshal has approved the use of the upper floor.

- (e) Children may be allowed on the second floor to use the bathroom if the only bathroom is on the second floor.

- (7) The room temperature must be at least 68 degrees Fahrenheit during the hours the child care business is conducted.

- (8) 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.

- (9) After painting or laying carpet, the home must be aired out completely for at least 24 hours with good ventilation before children are allowed to return.

- (10) There must be at least one flush toilet and one hand-washing sink available to children. Steps or blocks must be available to ensure children can use the toilet and sink without assistance.

- (11) The diaper changing area shall be located so that hand washing can occur immediately after diapering without contacting other surfaces or children.

- (12) A sink used for diapering or bathing activities shall not be used for any part of food or drink preparation or dish washing.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0125

RULE TITLE: Outdoor Space

RULE SUMMARY: Rules pertaining to the outdoor spaces used by children in care.

RULE TEXT:

- (1) There shall be an outdoor activity area that children can reach safely.
- (2) Elevated play equipment may not be placed on concrete.
- (3) The provider shall be aware of and protect children from any toxic or other harmful plants, shrubs, or trees.
- (4) Trampolines may be used under the following conditions:
 - (a) The trampoline must be maintained in good condition;
 - (b) A pad must be present that covers the springs;
 - (c) Direct adult supervision at all times while children are on the trampoline; and
 - (d) Only one child may be on the trampoline at a time.
- (5) Hot tubs, spas and pools must be inaccessible to children by one of 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.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0130

RULE TITLE: Fire Protection

RULE SUMMARY: Rules pertaining to requirements for fire safety in the Registered Family Child Care Home.

RULE TEXT:

- (1) There must be an easily accessible working fire extinguisher with a rating of at least 2-A:10-BC.
- (2) There shall be a working smoke detector on each floor level and in any area where children sleep.
- (3) Obstructions, including furniture, supplies, or any other items shall not be placed in a manner that blocks usable exits.
- (4) Candles or other open flame decorative devices are prohibited, except for the brief use of celebratory candles.
- (5) Matches and lighters shall be kept under child safety lock.
- (6) Flammable and combustible liquids, such as paint thinner and gasoline, shall be stored in the original container or a safety container.
- (7) The provider must complete a fire life safety self-evaluation at initial licensing and subsequent renewals. OCC staff and the provider will review the self-evaluation. If fire safety concerns are identified, OCC staff may consult with the fire marshal and after consultation, may request that the fire marshal complete a fire life safety inspection.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0135

RULE TITLE: Safety and Hazards

RULE SUMMARY: Rules pertaining to ensuring that children in care are protected from safety concerns and hazards.

RULE TEXT:

- (1) The building, grounds, toys, equipment and furniture used by children must be maintained in a hazard-free condition.
- (2) Both the exterior and interior of the home must be maintained in good repair.
- (3) 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) Any window above ground story that is potentially accessible to child care children, shall have a lock to prevent opening more than 4 inches when children under 5 years of age are present;
 - (e) Broken toys, furniture and equipment must be removed from areas accessible to children;
 - (f) Unused appliances, such as old refrigerators or freezers, that present a risk for entrapment, shall be secured so as to prevent entry by children;
 - (g) Floors must be free of splinters, large unsealed cracks, sliding rugs and other hazards;
 - (h) Devices which generate heat and are hot from recent use shall be inaccessible to children;
 - (i) 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;
 - (j) Extension cords shall not be used as permanent wiring;
 - (k) All appliance cords must be in good condition;
 - (l) Multiple connectors for cords shall not be used; and
 - (m) A grounded power strip outlet with a built-in over-current protection may be used.
- (4) 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.
- (5) All alcohol, marijuana, marijuana derivatives and associated paraphernalia must be stored under child safety lock.
- (6) Painted surfaces must be in good condition, both inside and outside, to avoid exposing children to lead paint.
- (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) 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.
- (11) Other hazards observed must be corrected.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0140

RULE TITLE: Sanitation

RULE SUMMARY: Rules pertaining to appropriate sanitation of items accessible to children in care.

RULE TEXT:

- (1) The child care home must be a healthy environment for children.
- (2) The building and grounds must be maintained in a clean and sanitary manner.
- (3) Kitchen and bathrooms shall be cleaned regularly and when soiled.
- (4) Cribs, mats and cots shall be cleaned and sanitized at least once a week and upon change of occupant.
- (5) Bedding shall be cleaned when soiled, upon change of occupant and at least once a week.
- (6) Pre-mixed sanitizers and disinfectants that are EPA registered and meet Oregon Health Authority criteria may be used in all areas of the home per manufacturer instructions.
- (7) The home and grounds shall be kept clean and free of litter and rubbish.
- (8) All garbage, solid waste, and refuse must be disposed of regularly, in a safe and sanitary manner.
- (9) 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.
- (10) All toys, equipment and furniture used by children must be cleaned, rinsed and sanitized regularly and whenever soiled.
- (11) The home shall be in such condition as to prevent the infestation of rodents and insects.
- (12) Doors and windows which are opened for ventilation shall be equipped with fine-meshed screens.
- (13) Automatic insecticide dispensers, vaporizers, or fumigants shall not be used.
- (14) All septic systems must meet the requirements of the Department of Environmental Quality.
- (15) 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 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0145

RULE TITLE: Beds

RULE SUMMARY: Rules pertaining to beds and sleeping arrangements for children in care.

RULE TEXT:

- (1) An individual bed, mat or cot with individual bedding appropriate to the season shall be provided at nap time for each toddler and preschool-age child in the home and for each school-age child who wants to rest.
- (2) Family beds or sofas may be used with individual bedding appropriate to the season.
- (3) At the parent(s) request, siblings may share the same bed.
- (4) The upper level of bunk beds shall not be used for children under 10 years of age.
- (5) The upper level of bunk beds may be used for children 10 years or older if the bed rail and safety ladder are in place.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0150

RULE TITLE: Infant and Toddler Furniture and Equipment

RULE SUMMARY: Rules pertaining to appropriate furniture and equipment to be used by infants and toddlers in care.

RULE TEXT:

[Note: For crib information, refer to OAR 414-205-0195.]

- (1) If high chairs are used, they shall have:
 - (a) A broad base to prevent tipping;
 - (b) A latch to keep a child from raising the tray;
 - (c) Straps to prevent a child from sliding out, and
 - (d) A crotch bar or guard to prevent a child from slipping down and becoming entrapped between the tray and seat.
- (2) If clip-on table chairs are used, they shall have straps to prevent a child from sliding out.
- (3) High chairs must meet current Consumer Product Safety Commission standards.
- (4) The use of infant walkers is prohibited.
- (5) Restrictive infant equipment (e.g. bouncers, swings, infant seats, high chairs) shall be used for no more than 20 minutes in any 2 hour period.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0155

RULE TITLE: Water Supply and Lead Testing

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

RULE TEXT:

- (1) The home shall have safe drinking water.
- (2) Facilities that are not on municipal water systems must meet all requirements under ORS 448.131 and OAR Chapter 333 Division 061.
- (3) Drinking water or water for preparing food, infant formula, drinking or cooking shall not be obtained from bathroom sinks or diaper changing sinks.
- (4) The facility shall sample the water from all drinking water faucets and fixtures identified pursuant to OAR 414-205-0020(10) 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.
- (5) Lead testing as required by 414-205-0020(12) and 414-205-0130(4) 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.
- (6) 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.
- (7) 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.
- (8) If the test results are at or above 15 ppb, the facility shall:
 - (a) Immediately prevent children from using or consuming water from faucets or fixtures identified in OAR 414-205-0020(10) that have test results at or above 15 ppb by supplying water from drinking water faucets or fixtures identified in OAR 414-205-0020(10) 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; and
 - (c) Implement corrective actions or remedies identified in the approved plan within 30 days of OCC

approval.

(9) 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 414-205-0020(10) that previously tested at or above 15 ppb.

(10) 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 414-205-0155 (4).

(11) Irrespective of results obtained in accordance with 414-205-0020(12) and 414-205-0130(4), actions to protect children from exposure to lead contamination in drinking water should be taken at all times, including:

(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 (approximately 30 seconds to 2 minutes); and

(b) Using only cold water from drinking water faucets and fixtures identified in OAR 414-205-0020(10) that have lead 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 an acceptable action to protect children from exposure to lead contamination in drinking water.

(12) Existing programs must submit testing results by September 30, 2018.

(13) If a provider replaces any faucets or fixtures identified pursuant to OAR 414-205-0020(10) at any time, the provider must notify OCC, and sample the water from these faucets and fixtures pursuant to the requirements of OAR 414-205-0155(4) 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 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0160

RULE TITLE: Illness or Injury

RULE SUMMARY: Rules pertaining to the procedures for illnesses and injuries that may occur in Registered Family Child Care Homes.

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 officer, 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 101 degrees Fahrenheit 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 this rule, shall be separated from the other children, and the parent(s) notified and asked to remove the child from the provider's home as soon as possible.
- (4) If a child has mild cold symptoms that do not impair their normal functioning, the child may remain in the home and the parent(s) notified when they pick up the child.
- (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) An outbreak of a child care restrictable disease, as defined in Oregon Health Authority rule, or food poisoning shall be reported immediately to the local health department and posted for the parents of all children who attend the facility.

(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, scissors, disposable plastic gloves for handling blood spills, a solution for disinfecting after a blood spill, a sanitary temperature taking device and CPR mouth guards.

(10) A first aid kit, a copy of each child's emergency medical information including a medical release form, information on any chronic health problems including allergies a child may have and any personal emergency medications shall be taken any time child care children are away from the child care premises.

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

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

(13) In the event of an illness or injury to a child which requires immediate medical care, the provider is responsible for securing such care and notifying the parent(s).

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

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0165

RULE TITLE: Medications

RULE SUMMARY: Rules pertaining to the appropriate storage and administration of medications to children in 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 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-205-0170

RULE TITLE: Sunscreen

RULE SUMMARY: Rules pertaining to the appropriate 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 329.610, ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0175

RULE TITLE: Animals

RULE SUMMARY: Rules pertaining to the presence and handling of animals in Registered Family Child Care Homes.

RULE TEXT:

- (1) Any animal at the family child care home 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 family child care home 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) Parents must be made aware of the presence of any animals on the premises.
- (9) Litter boxes shall not be located in areas accessible to children or areas used for food storage or preparation.
- (10) All animals shall be kept away from food preparation surfaces.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0180

RULE TITLE: Food Selection, Storage and Preparation

RULE SUMMARY: Rules pertaining to the appropriate selection, storage and serving of food to children in care.

RULE TEXT:

- (1) The provider must provide or ensure the availability of meals and snacks appropriate for the ages and needs of the children served.
- (2) The provider must ensure that all meals and snacks follow the USDA Child and Adult Care Food Program guidelines.
- (3) When the parent of a child provides food for the child's meal:
 - (a) Each child's food shall be monitored daily by a caregiver to ensure that the food meets nutritional requirements as defined in section (2) of this rule; and
 - (b) The provider shall have sufficient food available to supplement any meal that does not meet nutritional requirements as defined in section (2) of this rule.
- (4) All food and drink served by the provider shall be selected, stored, prepared, and served in a sanitary manner.
- (5) Foods must be stored and maintained at the proper temperature.
- (6) Foods must be prepared and served according to the minimum standards identified in food handler certification.
- (7) Water shall be freely available to children.
- (8) No liquids, other than milk, formula, water, and 100 percent fruit juice, shall be served.
- (9) Formula, human milk, and food provided by the parent shall be clearly marked with the child's name and refrigerated if required.
- (10) Commercially packaged baby food shall be served from a dish and not directly from the factory-sealed container. Leftovers in the serving container shall be discarded.
- (11) Honey or foods containing honey shall not be served to children under 12 months of age.
- (12) 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.

(13) Children of any age shall not be laid down with a bottle.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0185

RULE TITLE: Hand Washing

RULE SUMMARY: Rules pertaining to appropriate procedures for hand washing.

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) Before and after administering medications;
 - (e) After diapering;
 - (f) After using the toilet;
 - (g) After assisting someone with toileting;
 - (h) After nose wiping;
 - (i) After playing outside; and
 - (j) 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 home, they shall be kept out of children's reach and shall not be used on children.
- (3) When hand washing is not possible, e.g., on field trips or the neighborhood park, moist towelettes shall be used.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0190

RULE TITLE: Program of Activities - All Children

RULE SUMMARY: Rules pertaining to the program of activities for children of all ages.

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) A daily schedule covering all hours of operation shall be in writing, posted and provide:
 - (a) Regular activities such as eating, napping, and toileting with flexibility to respond to the needs of individual children;
 - (b) A balance of active and quiet activities;
 - (c) Individual choice time and guided activities;
 - (d) Daily indoor and outdoor activities; and
 - (e) Intentional planning for electronic media, if used as part of the program.
- (4) Children's daily activities shall include, gross motor, fine motor, dramatic play, creative expression through the arts, and reading activities.
- (5) In addition to the program outlined in the daily routine, children shall have activities, materials, and equipment that provide opportunities for choice and a variety of experiences appropriate to the age and ability of the children for both indoors and outdoors.
- (6) Child care children shall be limited to no more than two and a half hours per week of screen time. Screen time is defined as time spent using electronic devices, including, but not limited to computers, television, tablets, phones and game consoles.
 - (a) Usage times may be extended for special events, projects and homework; and
 - (b) All media exposure must be developmentally and age appropriate.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0195

RULE TITLE: Program of Activities for Infants and Toddlers and Safe Sleep

RULE SUMMARY: Rules pertaining to the program of activities and safe sleep requirements for infants and toddlers in care.

RULE TEXT:

- (1) Throughout the day, each infant and toddler shall receive physical contact and individual attention (e.g., being held, rocked, talked to, sung to, and taken on walks inside and outside the home).
- (2) The provider must have routines for eating, napping, diapering and toileting, with flexibility to respond to the needs of each child.
- (3) Infants shall have a variety of appropriate infant toys stimulating to the senses.
- (4) 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 home and placed in an appropriate sleep surface.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0200

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:
 - (A) Be at least 18 years of age;
 - (B) Hold a current and valid driver's license as required by the Oregon Department of Motor Vehicles (DMV); and
 - (C) 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) When transporting children:
 - (a) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle;
 - (b) Children shall leave the vehicle on the same side of the street as the building they will enter;
 - (c) Drivers delivering children to their homes or other destinations shall not depart until the child has been received by an authorized person; and
 - (d) No child shall be left unattended inside or outside a vehicle.
- (4) The following vehicles may be used to transport child care children:
 - (a) A vehicle manufactured to carry fewer than 10 passengers;
 - (b) A school bus or a multi-function school activity bus;
 - (c) A vehicle manufactured to carry 10 or more passengers that was manufactured in 2010 or after; or
 - (d) A vehicle manufactured to carry 10 or more passengers that was manufactured before 2010 with

the following conditions:

(A) Travel speed may not exceed 50 mph;

(B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on a 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.

(5) The provider must notify parents when transportation is being provided by a third party.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0205

RULE TITLE: Night Care

RULE SUMMARY: Rules pertaining to children who will be spending all or part of night at the Registered Family Child Care Home.

RULE TEXT:

- (1) A provider providing night care must:
 - (a) Have a written plan for the care, mutually agreed upon by the parent(s) and the provider;
 - (b) Be present on the same floor level as the child care children who are sleeping;
 - (c) Be awake for the arrival and departure of each child in night care; and
 - (d) Follow all other applicable Registration rules.
- (2) Notwithstanding OAR 414-205-0065(5), when night care is conducted, all persons, on the premises, 18 years of age and older, shall be enrolled in the CBR.
- (3) Night care shall not be provided on the second floor or above;
- (4) Each child who spends the majority of their sleeping hours per night in night care shall have a bed, sofa, or another sleeping arrangement that provides adequate support to a child's body and of a size appropriate to the age of the child.
 - (a) The upper level of bunk beds shall not be used for children under 10 years of age;
 - (b) The upper level of bunk beds may be used for children 10 years or older if a bed rail and safety ladder are in place;
 - (c) Each child who does not spend the majority of their sleeping hours in night care shall have a crib, cot, or mat with bedding that complies with OAR 414-205-0145(5), 414-205-0150 and 414-205-0195(4);
 - (d) At the parent(s) request, siblings may share the same bed.
- (5) Children spending the night must have the opportunity to brush their teeth with an individual toothbrush and toothpaste labeled with their name.
- (6) Children must bathe alone unless a parent(s) has given permission for siblings to bathe together.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0210

RULE TITLE: Swimming

RULE SUMMARY: Rules pertaining to children who will be swimming or engaging in other water activities.

RULE TEXT:

- (1) Swimming pools may not be used unless they have been certified by the Oregon Health Authority or delegated agent.
- (2) Children are prohibited from using a hot tub, spa, portable wading pool, or other similar equipment.
- (3) At all times, when children are engaged in swimming activities, the provider must:
 - (a) Have written permission from each child's parent or guardian;
 - (b) Ensure that a certified lifeguard is present and on duty;
 - (c) Ensure that a caregiver is within reach of infants and toddlers, when the water depth is 24 inches or less; and
 - (d) Ensure that a one-to-one staff to child ratio is maintained for each infant and toddler, and that staff are holding or are in constant touch contact with each infant and toddler when the water depth is greater than 24 inches.
- (4) Preschool and older children must be within sight and sound of caregivers at all times.
- (5) The provider shall comply with the following staff to child ratios when at the swimming pool:
 - (a) Six weeks of age to 36 months - 1:1;
 - (b) Preschool age - 1:6;
 - (c) School age - 1:10.
- (6) All adults counted in the staff to child ratios shall be able to swim if the water is more than 48 inches deep.
- (7) Water activities that involve a sprayer or spray feature using potable water that is not re-circulated or collected may be conducted by the home.
- (8) Natural Bathing Areas:
 - (a) The provider shall not conduct swimming activities in areas with flowing water;
 - (b) Wading is the only water activity permitted in shallow surf, lakes, rivers and streams.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0215

RULE TITLE: Exceptions

RULE SUMMARY: Rules pertaining to the application and assessment of exception to rule requests by providers.

RULE TEXT:

- (1) OCC may grant an exception to an individual rule only when the health, safety and well-being of children will not be compromised as a result of the exception.
- (2) The provider shall request an exception to a rule on a form provided by OCC. The request shall include:
 - (a) A justification for the requested exception; and
 - (b) An explanation of how the provider plans to meet the intent of the rule.
- (3) The provider must be in compliance with the rule as written until the provider has received approval for the exception from OCC.
- (4) An exception is valid only for the specified dates for which it is issued.
- (5) The granting of an exception to a rule shall not set a precedent, and each request shall be evaluated on its own merits.
- (6) OCC may withdraw approval of an exception at any time, if deemed necessary to ensure the health, safety and well-being of the children.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0220

RULE TITLE: Complaints

RULE SUMMARY: Rules pertaining to procedures for responding to complaints received against Registered Family Child Care Homes.

RULE TEXT:

- (1) The Office of Child Care will respond to regulatory complaints made on registered and illegal providers, and will cooperate with law enforcement or other agencies in response to allegations of child abuse or noncompliance.
- (2) Any complaint received by the Office of Child Care may result in an on-site assessment at the family child care home.
- (3) All serious complaints will result in an on-site assessment at the family child care home.
- (4) Complaints alleging child abuse or neglect must be reported to the Department of Human Services Child Welfare (DHS). Complaints alleging child abuse or neglect may also be reported to local law enforcement agencies.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0225

RULE TITLE: Civil Penalty

RULE SUMMARY: Rules pertaining to the administration of civil penalties against Registered Family Child Care Homes.

RULE TEXT:

(1) Violations of these rules or terms and conditions of registration under these rules may be subject to a civil penalty up to \$750 per violation.

(2) Whenever the Office of Child Care (OCC) investigates an alleged complaint at a registered family child care home, or a home that may be operating in violation of the requirements of ORS 329A.250 through 329A.450, OCC shall:

(a) Provide technical assistance as appropriate;

(b) Send written notice of the complaint visit to the facility with a finding of valid, unable to substantiate, or invalid; and

(c) OCC shall assess whether additional legal actions are appropriate, including but not limited to civil penalties, denials, revocations or suspensions, depending upon:

(A) The assessed value of the rule violated

(B) Numbers of previous violations of the same rule; or

(C) Circumstances surrounding the rule violation

(3) Notwithstanding subparagraphs (1) and (2), the Office of Child Care (OCC) shall take the following actions whenever a child care home has violated a rule with an assessed value of “low:”

(a) For a first violation that is the result of an observed noncompliance, OCC may issue a written notice of the rule violation and shall provide technical assistance.

(b) For a second and all subsequent violations of the same rule within 2 years of the most recent violation:

(A) OCC shall issue a written notice for the second and all subsequent rule violations; and

(B) OCC may assess a civil penalty not to exceed \$100 per violation, not to exceed \$500 per quarter for the same rule violation.

(4) Notwithstanding subparagraph (1) and (2), the Office of Child Care (OCC) shall take the following actions whenever a child care home has violated a rule with an assessed value of “medium:”

(a) For a first violation that is the result of an observed noncompliance, OCC may issue a written notice of the rule violation and shall provide technical assistance.

(b) For a second and all subsequent violations of the same rule within 2 years of the most recent violation:

(A) OCC shall issue a written notice for the second and all subsequent rule violations; and

(B) OCC may assess a civil penalty not to exceed \$250 per violation, not to exceed \$1,000 per quarter for the same rule violation.

(5) Notwithstanding subparagraph (1) and (2), the Office of Child Care (OCC) shall take the following actions whenever a child care home has violated a rule with an assessed value of “high:”

(a) For a first violation OCC shall issue a written notice of the rule violation and provide technical assistance. OCC may also assess a civil penalty not to exceed \$800.

(b) For a second and all subsequent violations of the same rule within 2 years of the most recent violation:

(A) OCC shall issue a written notice for the second and all subsequent rule violations; and

(B) OCC may assess a civil penalty not to exceed \$500 per violation, not to exceed \$2,000 per quarter for the same rule violation.

(6) Notwithstanding subparagraph (1) and (2), the Office of Child Care (OCC) shall take to following actions whenever a child care home has violated a rule with an assessed value of “extreme:”

(a) For a first violation OCC shall issue a written notice of the rule violation and may assess a civil penalty not to exceed \$1600.

(b) For a second and all subsequent violations of the same rule within 2 years of the most recent violation:

(A) OCC shall issue a written notice for the second and all subsequent rule violations; and

(B) OCC shall assess a civil penalty not to exceed \$750 per violation.

(7) Each day that a child care home is operating in violation of any of the rules, terms or conditions of registration is a separate violation of the rules.

(8) An individual or entity that provides child care subject to licensing in a home or facility that is not registered with the Office of Child Care, may be subject to a civil penalty not to exceed \$1,500 per day of operation of the unregistered home.

(9) Notwithstanding the Office of Child Care’s (OCC) decision to impose a civil penalty for one or more rule violations, OCC may also take action to deny, suspend or revoke a registration for the same rule violation or violations.

(10) The provider has the right to appeal any decision to impose a civil penalty, subject to the provisions of Chapter 183, Oregon Revised Statutes.

(11) Failure to pay a civil penalty in which the Office of Child Care has issued a final order by default or a final order after a contested case hearing shall be grounds for denial or revocation of the facility's registration.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0230

RULE TITLE: Suspension, Denial and Revocation

RULE SUMMARY: Rules pertaining to suspensions, revocations and denials of the Registered Family Child Care license.

RULE TEXT:

- (1) The Office of Child Care may immediately, and without prior notice, suspend the child care registration when, in the opinion of OCC, such action is necessary to protect the children from physical or mental abuse or a substantial threat to health, safety or well-being. Such action may be taken before an investigation is completed.
- (2) A provider whose registration has been suspended must immediately notify, verbally or in writing, all parents of the suspension.
- (3) A provider whose registration has been suspended must immediately provide OCC with all names, work and home telephone numbers and addresses of the parent(s) or legal guardian(s) for each child.
- (4) A provider whose registration has been suspended must post the suspension in the home where it can be viewed by parents and others for the duration of the suspension.
- (5) If necessary to protect children, OCC may give public notice of denial, suspension or revocation action taken. The type of notice will depend on individual circumstances.
- (6) If the provider does not request a hearing and the conditions which resulted in suspension have not been corrected, the registration shall be revoked.
- (7) Registration may be denied or revoked if a registered family child care home fails to meet requirements, provide OCC with information requested, allow an inspection, correct deficiencies, or is operated or maintained in a manner which is harmful to the health, safety or well-being of children in care.
- (8) A registered family child care home whose registration has been denied or revoked must immediately notify all parents of the closure and shall post a notice of the closure where it can be viewed by parents and others. The notice shall remain posted for a minimum of 2 weeks.
- (9) The provider has the right to appeal any decision to suspend, deny or revoke the registration, subject to the provisions of Chapter 183, Oregon Revised Statutes.
- (10) Any action taken by OCC to deny, suspend, or revoke registration may be reported to the Department of Human Services, USDA Child Care Food Programs and child care resource and referral system.
- (11) A provider whose registration has been denied for cause (e.g. health and safety concerns, criminal activity or child protective services involvement) or revoked shall not be eligible to reapply for 5 years after the effective date of the closure.

(12) If any person, who is enrolled in the CBR, has been charged with, arrested for, or a warrant is out for any of the crimes which OCC has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, registration may be denied or suspended or revoked until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in or reside in the home, or have access to children in the home.

(13) Registration may be denied, suspended or revoked if an individual listed in OAR 414-205-0075 has a child protective services history or an open child protective services or law enforcement case that would disqualify the individual from the CBR.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

ADOPT: 414-205-0235

RULE TITLE: Findings Reviews

RULE SUMMARY: Rules pertaining to the findings reviews process for Registered Family Child Care Homes.

RULE TEXT:

- (1) The provider has a right to request a first level findings review of any complaint visit that results in a valid or unable to substantiate finding, any observed non-compliance, or whenever there is a risk assessed value assigned in which a range of potential values is possible (e.g. medium to high or high to extreme).
 - (a) The first level findings review shall be conducted by teleconference or similar technological means within 30 calendar days of the date from which the Office of Child Care (OCC) received the request.
 - (b) If the provider shows good cause why the first level findings review cannot be conducted via telephone, an in-person meeting shall be scheduled at the OCC offices in Salem.
 - (A) A determination of whether good cause has been shown to have an in-person review rests solely with the first level findings review panel members assigned to review the findings.
 - (B) If an in-person review is granted, OCC shall conduct the review within 30 calendar days of the date from which the panel made a determination that good cause has been shown.
 - (c) If the provider requests a first level findings review they may choose to waive their right to give verbal testimony and submit relevant evidence and written statements to the review panel for its consideration and decision. When a provider waives their right to appear, all documents must be submitted to OCC for review within 30 calendar days of the date of the findings review letter that is under consideration.
- (2) The action or decision that is under review shall remain in effect and shall be reported as such during the findings review process.
- (3) A provider must initiate a findings review by submitting their request on the appropriate OCC form, within 30 calendar days of the date of the findings letter.
- (4) The provider does not have a right to representation by an attorney during the findings review process, but may at their own expense hire an attorney to represent them during the first level findings review process.
- (5) The provider may be represented by a lay representative of their own choosing during the first level findings review process.
- (6) The provider, their attorney, or lay representative may prepare documents for and present relevant evidence to the first level review panel.

(7) The first level findings review panel shall consist of two OCC regional managers whose area of responsibility does not include the facility seeking the findings review; or, the OCC licensing director and a regional manager whose area of responsibility does not include the facility seeking review.

(a) The first-level review panel shall consider all relevant evidence and written statements submitted to the review panel;

(b) The first-level review panel may question the provider; and

(c) The review panel shall inform the provider, or their attorney, in writing of its decision within 30 calendar days of the date the findings review request was received by OCC.

(8) The provider may request a second-level review whenever the first-level review panel has decided a complaint finding or observed noncompliance remains unchanged, except:

(a) First level findings that result in a finding of unable to substantiate are not appealable to a second level review;

(b) The first level review panel's decisions regarding risk assessed rule values are not appealable to a second level review.

(9) The provider must request a second level review within ten (10) business days of the date of the first level review letter.

(10) The second level review shall be conducted by OCC's legal administrator, who may only review the written record of the first level review, including:

(a) Relevant evidence and written statements that were submitted to the first level review panel;

(b) Case file materials that were presented to the first level panel;

(c) The decision of the first level findings review panel; and

(d) Any other document(s) the legal administrator believes to be relevant to the proceeding.

(11) The provider may not submit additional information or written statements for the second-level review. Second level review shall be completed within 20 calendar days of the date OCC receives the request for the review.

(12) The legal administrator shall inform the provider, or their attorney, in writing of the decision within 30 calendar days of the date the second level review request was received by OCC.

(13) Second level review decisions are final.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

