

PALM BEACH COUNTY  
**RULES  
&  
REGULATIONS**  
GOVERNING  
FAMILY DAY CARE FACILITIES

Family Day Care Homes  
Family Child Care Homes  
Family Child Care Facilities



*REVISED: November 21, 2006*



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## **CHAPTER 2**

### **PALM BEACH COUNTY RULES & REGULATIONS GOVERNING FAMILY DAY CARE**

#### **ARTICLE I - SHORT TITLE AND APPLICABILITY**

- A. These Rules and Regulations shall be known as the "Palm Beach County Rules and Regulations Governing Family Day Care Facilities".
- B. All provisions of these Rules and Regulations shall be effective within the unincorporated and incorporated areas of Palm Beach County, Florida.
- C. These Rules and Regulations shall be construed to effect the purposes of protecting the health, safety and welfare of the children of Palm Beach County and promoting their emotional and intellectual development and care. These Rules shall be the minimum standards for facilities providing family day care in Palm Beach County.
- D. These Rules and Regulations shall apply to all family day care facilities located in Palm Beach County. Unless otherwise provided herein strict compliance with the Rules shall be required.

#### **ARTICLE II - AUTHORITY**

These Rules and Regulations are adopted under the authority of Chapter 59-1698, Laws of Florida, as amended.

## ARTICLE III - DEFINITIONS

For the purpose of these minimum standards, the following terms shall have the meaning indicated in this article. No attempt is made to define ordinary words which are used in accordance with their established dictionary meaning except when necessary to avoid misunderstanding.

1. *Adult* -- means a person eighteen (18) years of age or older.
2. *Authorized adult or authorized substitute* -- means the operator or substitute who has been duly approved and or granted a license to operate the family day care facility and has met the minimum requirements, including but not limited to completion of background screening, CPR certification, First Aid training, negative TB test, and physical examination.
3. *Cardiopulmonary resuscitation* -- refers to current certification in infant and child cardiopulmonary resuscitation ("CPR"), an emergency procedure for sustaining breathing and heartbeat until professional help arrives. Acceptable courses include those authorized by the American Heart Association or the American Red Cross that contain an infant and child component. Such course shall be a "hands-on course" with real time classroom instruction. On-line internet CPR courses are not acceptable to meet this standard.
4. *Child* -- means a person related to the operator of a facility regulated hereunder under twelve (12) years of age and all other persons under eighteen (18) years of age.
5. *Child care* -- means the care, protection and supervision of children for a period less than twenty-four (24) hours a day on a regular basis which supplements parental care, enrichment and health supervision for children in accordance with individual needs, and for which compensation is received in the form of a payment, fee, grant, services, or goods in kind. In addition, facilities which are held out to the public to be establishments which regularly provide child custodial care shall be deemed family day care facilities regardless of whether compensation is received, and be subject to the requirements herein.
6. *Child Care Advisory Council* -- means an entity appointed by the Board of County Commissioners of Palm Beach County, sitting as the Child Care Facilities Board, to serve on behalf of the Board of County Commissioners as to the issuance and revocation of licenses, and to advise the Board as to the Rules and Regulations necessary to protect the health and safety of children in family day care homes. The term "Council" may be used interchangeably with "Child Care Advisory

Council". The Palm Beach County Health Department shall serve as staff to the Council.

7. *Child Care Facilities Board* -- means the Board of County Commissioners of Palm Beach County sitting as the local licensing agency to license family day care homes in Palm Beach County. The term "Board" may be used interchangeably with "Child Care Facilities Board".
8. *Conspicuously posted or displayed* – means clearly visible, immediately apparent upon entering the room. Lettering on such materials produced by the facility shall be bold-faced, easily readable, and no smaller than one (1) inch in height.
9. *Custodial care* -- means child care as previously defined herein, for the purposes of these Rules.
10. *Department* -- means the Palm Beach County Health Department.
11. *Family day care facility* -- means any building or shelter in which custodial care is rendered to one to five children, inclusive, and for which compensation is received in the form of a payment, fee, grant, goods or services in kind for any of the children receiving care, whether or not operating for profit, or which is held out to the public to be an establishment which regularly provides child custodial care. A family day care facility also includes the parking lot or area, curtilage, yards, landscaped areas, playgrounds, accessory buildings and all outdoor areas of the facility. The term also refers to the family day care operation associated with the building or shelter subject to the exemptions set forth in Chapter 59-1698 Special Acts, Laws of Florida, as amended by Chapter 77-620 Special Acts, Laws of Florida. For the purposes of this definition, the children in care shall be from one or more families unrelated to the provider. Where care is provided only to children related to the provider, specifically by blood, marriage, adoption or foster care, then the term family day care shall not apply. The terms "family day care home", "family child care home", "home", or "facility" may be used interchangeably with "family day care facilities", as defined by the above referenced Special Act.
12. *Family member* -- means a person residing in the family day care home who is related to the operator.
13. *Fictitious name documentation* -- means (a) a copy of the applicant's, or license holder's current fictitious name registration, issued by the Division of Corporations of the Department of State, or (b) a written statement by the applicant, or license holder setting forth the reason why compliance with the Fictitious Name Act (section 865.09, Florida Statutes, as amended or replaced) is not required.

14. *Field trip* -- means any excursion off of the premises of a family day care facility.
15. *First-aid training* -- refers to current certification in a course of instruction designed to provide fundamental principles, knowledge and skills in first aid and accident prevention, equivalent to the Red Cross Standard First-Aid Course. Such course shall be a "hands-on course" with real time classroom instruction. On-line internet courses are not acceptable to meet this standard.
16. *Handicapped child* -- means a child with deafness, hearing impairment, blindness, visual impairment, musculoskeletal handicap, speech impairment, health or developmental impairment, mental retardation, serious emotional disturbance, specific learning disability, who by reason thereof requires special services.
17. *Health Department* -- means the Palm Beach County Health Department, which is responsible for carrying out the administrative and financial duties of the Board and for inspecting family day care facilities in Palm Beach County, to insure compliance with these Rules and Regulations, as well as with applicable state laws and regulations. The Health Department may also be referred to herein as the Department.
18. *Health Resource Professional* – means any of the following Florida licensed health care professionals with appropriate pediatric experience: licensed practical nurse, physician's assistant, advanced registered nurse practitioner (ARNP), registered nurse, family practitioner, pediatric physician.
19. *Household member* -- means a person residing in the family day care home who is not related to the operator.
20. *Infant* -- means a child less than twenty-four (24) months of age.
21. *Isolation area* – means a room or area, adequately ventilated and heated, provided for the temporary isolation of children with communicable diseases or who are displaying signs of illness and are waiting to be picked up by the parent. This room or area is to be conveniently located near to hand washing and toilet facilities and must be in an easily observable location. Such an area or room must be provided with a cot, bed, mat or chair consisting of materials that can be sanitized easily.
22. *Juvenile* -- means a person between twelve (12) and seventeen (17) years of age.
23. *Licensed capacity* -- means the maximum number of children or infants that may be cared for by a facility at any one time whether on or off facility premises. This includes children away from the facility on field trips. Licensed capacity shall be

based on the minimum requirements of these Rules.

24. *Medication* -- means a drug or other substance used as a remedy for, or prevention of illness:
- a) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement thereto.
  - b) Intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in man or other animals.
  - c) Intended to affect the structure or any function of the body of man or other animals; or
  - d) Intended for use as a component of any article specified in paragraph (a), paragraph (b), or paragraph (c), but does not include devices, their components, parts, or accessories.
  - e) Does not include topical non-medicated physical barriers as defined in Article IX.C.
25. *Operator* -- means a person who holds the license to operate a family day care facility. The operator shall be responsible for the overall operation of the facility. The operator of a family day care facility must be at least twenty-one (21) years of age, and a resident of the family home. All children attending the facility shall be under the operator's direct care and supervision except when temporarily under the care of a substitute.
26. *Owner* -- means the person(s) or entity who bear(s) legal ownership of the family day care facility operation or business and has ultimate responsibility for the overall operation, administration and compliance with the Rules and Regulations Governing Family Day Care Facilities. This responsibility shall not be delegated or assigned.
27. *Parent* -- means a person with legal custody of a child in care in a family day care home, such as a mother, father, or legal guardian.
28. *Personnel* -- includes the operator, substitutes, family members and household members.
29. *Sanitize* – as it refers to diaper changing mats, toys which may be mouthed, or other surfaces such as tables and benches, this means the application of a solution via spray bottle, or by immersion if appropriate. This solution shall be made by adding one tablespoon of bleach to a quart of water, or one quarter cup of bleach

to a gallon of water. This solution shall be made fresh daily, with unused portions disposed of at the end of each day.

Alternate disinfecting agents may be used in accordance with the manufacturer's specifications, provided that such use renders the items 99.9% germ free, and leaves no toxic residue. Where such alternative sanitizing agents are used, the facility shall obtain and keep on hand at the facility appropriate Material Safety Data Sheets (MSDS) for those products.

30. *Screening* -- means the act of assessing the background of family day care personnel, and includes, but is not limited to, employment history checks, local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through the Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation; except that screening for volunteers included under the definition of personnel includes only local criminal records checks through local law enforcement agencies for current residence and residence immediately prior to employment as a volunteer, if different, and statewide criminal records correspondence checks through the Department of Law Enforcement.
31. *Snack* – means a commercially pre-packaged non-potentially hazardous ready-to-eat-food item that is wrapped for individual consumption. This also includes fresh, whole, uncut, ready-to-eat non-potentially hazardous fruits and vegetables.
32. *Substitute* -- means any fully screened adult, who has met the requirements for First Aid training, CPR certification, negative TB test or TB Risk Assessment and physical examination as described in Article IV.B, has met the training requirements as set forth in Article VI.B.1, and who provides temporary or emergency care for children in the absence of the operator. A licensed family day care provider with an operational family day care home may not serve as a substitute for another family day care home, or child care facility. A licensed family day care provider, with a non-operational family day care home (no children currently enrolled), may serve as a substitute for a single child care facility or may serve as substitute for one of up to two (2) other family day care facilities, provided that each of these other family day care operators has one (1) other substitute that is not a licensed family day care provider.
33. *Training Coordinating Agencies* -- means authorized contracted providers, designated by the Department of Children & Families, and responsible for the coordination of day care personnel training at the district/regional level.
34. *Violation* – means noncompliance with any provision of these Rules or of §§. 402.301 - 402.319, Florida Statutes, as amended or replaced.

35. *Violation Classes:*

Class I -- These are the most serious in nature & could result, or do result in death/serious harm to the health, safety & well-being of a child, and include overt abuse & negligence related to the operation and maintenance of the facility.

Class II -- These are serious in nature but do not pose an immediate threat to the health, safety & well-being of a child, but could reasonably be expected to cause harm with-in 90 days, e.g., leaking roof.

Class III -- These are the least serious in nature & include those conditions or occurrences related to the operation and maintenance of the facility other than Class I or Class II violations.

Any and all violations may be upgraded to a higher class of violation depending on the severity of the circumstances.

36. *Weekend child care* -- means child care provided between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

## **ARTICLE IV - LICENSURE PROCEDURE AND REQUIREMENTS**

### **A. LICENSE REQUIRED:**

It shall be unlawful for any person, firm or corporation to establish, maintain or operate in Palm Beach County, a family day care facility without first obtaining a license pursuant to these Rules and Regulations.

The license shall be void when ownership, possession, or location of the family day care operation changes. The license shall remain the property of the Department at all times and shall be returned to the Department upon demand, closure of facility, or if void before the expiration date printed thereon. All licenses shall be issued only upon submission of completed application documentation, receipt by the Department of applicable approved background screening clearances, completion of current satisfactory inspection of the facility by the Department, and payment of required fees.

### **B. LICENSURE PROCEDURES**

1. The Board of County Commissioners of Palm Beach County, Florida, acting in the capacity as the Child Care Facilities Board, is the local licensing agency to license family day care facilities in this County. The Board has designated the Child Care Advisory Council to act on the Board's behalf for the purpose of issuance and revocation of licenses, and as to Rules and Regulations necessary to protect the health and safety of persons in family day care facilities. The Department shall serve as staff to the Child Care Advisory Council. For the purposes of these Rules, the rules and procedures governing the Child Care Advisory Council shall be as set forth in the Palm Beach County Rules and Regulations Governing Child Care Facilities, Article IV(A)(2), as amended or replaced.
2. The Department Director, or his or her representative, is charged with the administration and financial responsibility of carrying out the duties of the Board, including, but not limited to, issuing licenses, subject to Council approval, and inspecting family day care facilities as required by these Rules and Regulations.
3. Application for a family day care facility license shall be made in writing on an approved form, and contain such information, as prescribed by the Department. Said application is to be signed by the operator of the facility, and submitted to the Department. All applications for new facilities, change of ownership, or addition of service must be submitted to the Department for review prior to licensure. Completed applications, with the required substantiating documentation, must be submitted to the Department at least three (3) weeks prior to the scheduled monthly meeting of the Palm Beach

County Child Care Advisory Council. An application for change of ownership means an application for licensure on a currently approved facility from any person or persons, including corporations and other distinct entities, other than the current license holder. Any false statements, information or material omissions contained in said application shall be grounds for denial or revocation of the license.

A completed application with the following documentation shall be on file at the Department prior to issuance of a license:

- a) Affidavit of Good Moral Character for the applicant, substitute(s) and any adult household members.
- b) Signed consent forms for a local criminal record check for applicant, substitute(s) and household members twelve (12) years of age or older, and signed consent forms for delinquency checks for household members between the ages of twelve (12) years and seventeen (17) years of age.
- c) Notarized statement attesting that Fingerprint Card and Information Caretaker Background Screening Form have been submitted for applicant, substitute(s) and any adult household members to the Department for processing.
- d) Supplement to the application: two (2) year employment history and listing of the name, address and phone number of three (3) persons submitting character references for the operator and substitute(s).
- e) Three (3) letters of character references for the operator and substitute(s), of which two (2) must be non-related.
- f) Evidence of satisfactory inspections performed by the Environmental Health inspector and the Health Nurse within thirty (30) days preceding the date of licensure.
- g) A letter from a physician stating the applicant is free from tuberculosis as indicated by an approved TB risk assessment and/or an approved skin test or chest X-ray administered within the proceeding six (6) months for applicant, substitute(s) and household members over the age of twelve (12) years.
- h) A medical statement that the applicant and substitute(s) are physically qualified to care for children.
- i) A set of house and site plans indicating:

1. if there are water hazards (i.e., swimming pools, spas, canals, lakes, ponds, etc.) adjacent to, or on the property;
  2. if the property is located on a busy, well-traveled street; and
  3. the fenced play area.
- j) Evidence the applicant and substitute(s) holds a current certification in First Aid and infant and child CPR.
  - k) Evidence that the applicant and substitute(s) have satisfactorily completed a Child Care Water Safety Course or the current equivalent if there is a swimming pool (other than a spa) on the premises.
  - l) Fictitious name documentation, if applicable.
  - m) Evidence that both operator and substitute(s) have completed an approved family day care course, and approved training in early literacy and language development as set forth in Article VI herein.
  - n) A statement attesting to the number of hours the substitute(s) works at the facility. This statement shall be completed on a form provided by the Department.
  - o) Evidence of the approval of the applicable Building Department, if located in incorporated areas.
  - p) Evidence of the approval of the applicable Fire Department.
  - q) Proof of residence at the location to be licensed. A copy of the proposed operator or applicant's current Florida driver's license or State of Florida Identification, and two (2) utility bills dated within six (6) weeks of date of submission of the original application, shall serve as proof of residence.
  - r) Proof of ownership of the real property. A copy of the recorded property deed or a current tax bill will serve as proof of ownership and a lease agreement or management agreement (if applicable). If the property is leased, the applicant shall provide the property owner's written verification of authority to operate a family day care facility on said property.
4. The Department shall, subject to Council approval, issue a license or renew a license upon determining that minimum standards are met, and the applicant otherwise meets the requirements for licensure set forth herein.

A license shall not be issued or renewed unless all required screening materials have been timely and accurately submitted in accordance with the procedures set forth in Article IV herein. A license shall not be issued or renewed if any of the personnel at the applicant facility have failed the screening required by Sections

402.305(1)(a) and 402.3055, or these Rules and Regulations.

5. All licenses shall expire June 30<sup>th</sup> of each year, unless revoked or surrendered. All applications for renewal for the following calendar year must be completed and filed with the Department no later than March 1 of the current year. Applications not timely filed may cause delay in licensure beyond the date of expiration and subject the licensee to penalties for violation of Article IV. A. 1 of these Rules. The following documents must accompany the renewal application:

- a) Completed, notarized application;
- b) Signed consent forms for a local criminal record check for applicant, substitute(s) and household members twelve (12) years of age or older, and signed consent forms for delinquency checks for household members between the ages of twelve (12) years and seventeen (17) years of age;
- c) Corporate information and/or fictitious name information, if applicable;
- d) A completed, notarized Affidavit of Good Moral Character for operator, household members eighteen (18) years of age or older, and substitute(s);

Any false statements, information or material omissions contained in the renewal application may be grounds for revocation or denial of license.

Family day care licenses shall be issued only upon submission of completed renewal application documentation, payment of required fees, and completion of current satisfactory inspection of the facility by the Department.

6. Licenses shall not be transferable or assignable.
7. The license shall be issued in the name of the owner and operator of the family day care facility. The operator of a family day care home may not work outside of the home during the hours when the family day care home is operating. In the event of rental or leased property the operator shall be the individual who occupies the residence. The license shall be valid for no premises other than those for which it was originally issued. The operator shall hold only one Family Day Care Facility license and must be a full time resident of the family day care facility.
8. A license for the operation of a family day care facility shall not be issued or renewed if the licensee has an outstanding fine assessed pursuant to these Rules and Regulations which is in final order status. In the case of an application for change of ownership for a family day care facility having an outstanding fine, the outstanding fine shall be paid before a license or renewal

is issued.

### **C. MINIMUM STANDARDS FOR THE ISSUANCE OF LICENSES**

1. Standards established by these Rules and Regulations shall meet or exceed state family day care standards set forth in Chapter 402, Florida Statutes, as amended, or replaced, and Florida Administrative Code provisions established pursuant to Florida Statutes, § 402.305, as amended or replaced, which standards are expressly incorporated herein by reference. In the event of a conflict between these Rules and State family day care standards, the more stringent shall apply.
2. No Rules and Regulations of the Board shall be adopted or become effective until after a public hearing has been held by the Board pursuant to notice published in a newspaper of general circulation in Palm Beach County at least ten (10) days prior to the hearing.
3. When approved by the Board and filed with the Clerk of the Board of County Commissioners, such Rules and Regulations have the force and effect of law.
4. To ensure that accurate statistical data is available, the Department shall report annually to the Department of Children and Families the number of family day care facilities under the jurisdiction of the Child Care Facilities Board, the number and age range of children served, and the number of revocations and denials of licenses during the previous year.

### **D. LICENSED CAPACITY**

A family day care facility shall be allowed to provide care for one of the following groups of children, which shall include those children under the age of thirteen (13) years of age who are related to the caregiver, or who are household members:

1. A maximum of four (4) children from birth to twelve (12) months of age for a total of 4 children; or
2. A maximum of 5 children from birth to twelve (12) years of age, for a total of 5 children, provided that no more than three (3) of the children are from the ages of birth to twelve (12) months of age.

3. All children present in the facility under the age of thirteen (13) years of age, whether or not related to the caregiver, or who are household members, and whose parents are absent from the facility, including children away from the facility on field trips, shall be counted in determining compliance with these Rules and Regulations.

## E. ADVERTISEMENTS

It is unlawful for a family day care facility to advertise the operation of a family day care facility without a valid license. Any person advertising a licensed family day care facility by printed notice or broadcast must include in the advertisement the facility's local agency license number. This requirement includes, but is not limited to, advertisements in the yellow pages of the telephone directories, community bulletin boards, fliers, pamphlets, classified ads, signs, radio,-television, computer modem, internet, and other advertising media. The requirement does not apply to classified ads for employment purposes.

## F. FEE

No license authorizing a person or entity to operate a family day care facility in Palm Beach County, pursuant to Chapter 59-1698, Laws of Florida, as amended, shall be issued until such person or entity has paid a fee according to the fee schedule below:

1. *Family day care facility.* The annual fee for operation of a family day care facility shall be \$40.00.
2. *Prorated Fees for Mid-year Licensure.* Family day care facilities obtaining a license after July 1<sup>st</sup> of each year, shall be required to pay a prorated fee as follows:

<b>For licenses issued:</b>	<b>License fee required:</b>
Jul. 1 through Sept. 30	100% of required annual fee
Oct. 31 through Dec. 31	75% of required annual fee
Jan.1 through Mar. 31	50% of required annual fee
Apr. 1 through Jun. 30	25% of required annual fee

3. **Change of Ownership Fee:** Family Day Care facilities obtaining a change in ownership shall be required to pay an administrative fee of twenty-five dollars (\$25.00), in addition to the applicable license fee.

4. Authority to collect fees. The Department is authorized to collect the fees imposed herein and apply said fees to cover its costs associated with inspection and licensing under Chapter 59-1698, Laws of Florida as amended.

**ARTICLE V.  
EXCLUSIONS, HEARINGS PROVIDED, DENIAL OR REVOCATION OF  
LICENSE OR NIGHT TIME CARE APPROVAL.**

**A. Exclusion From Owning, Operating, Or Being Employed By A Family Day Care Facility:**

- (1) Ownership and operation of a family day care facility, or employment by a family day care facility may be excluded pursuant to section 402.3055(2), Florida Statutes, as may be amended or replaced.
- (2) Where the Department is aware of a history of enforcement or disciplinary action involving an applicant, owner or operator while being the owner, operator, or employee of a child care facility or family day care facility, the Department shall notify the applicant, owner or operator, in writing, that such history could be grounds for denial or revocation of a family day care facility license. Pursuant to Article VII (G) herein, the Department shall refer the following to the Child Care Advisory Council to make determination as to the exclusion from owning or operating a family day care facility in Palm Beach County and the denial or revocation of such license:
  - (a) The applicant, owner or operator being a party to a child care facility or family day care facility license being denied, revoked or suspended in any state or jurisdiction, or,
  - (b) The applicant, owner or operator has been the subject of disciplinary action or been fined while being the owner, operator, or employee of a child care facility or family day care facility in any state or jurisdiction.
  - (c) Should the Council's initial determination be that there are possible grounds for denial or revocation, the Council shall direct the Department to issue a notice of intent to deny or revoke in accordance with Article V herein.

**B. Intent to Deny or Revoke a License, or Night Time Care Approval:**

The Department shall deny or revoke a license or night time care approval, or pursue other remedies including, but not limited to, the implementation of a corrective action plan and enforcement action as set forth in Article XVIII herein, in addition to or in lieu of denial, or revocation for failure to comply with the standards herein. When the Director of the Department has reasonable cause to believe that grounds for denial or revocation of a license or night time care approval exists, or when the Council has directed the issuance of a notice of intent to deny or revoke, the Director shall notify the applicant or licensee in writing, stating the grounds upon which the license or night time care approval is being

denied or revoked. If the applicant or licensee makes no written request for a hearing to the Child Care Advisory Council within fifteen (15) days from receipt of such notice, the license or night time care approval shall be deemed denied or revoked as the case may be.

C. **Denial or Revocation Hearings:**

Such hearings are not granted pursuant to Florida Statute, Chapter 120, but are granted pursuant to Special Acts, Laws of Florida, Chapter 59-1698, as amended.

1. Time for Hearing

If a request for a hearing is made to the Child Care Advisory Council, a hearing shall be held within sixty (60) days and shall be conducted by the Child Care Advisory Council. Either party may be granted a one-time continuance of no more than thirty (30) days.

2. Hearing Procedures

All testimony shall be under oath and shall be recorded. Formal Rules of Evidence shall not apply, but fundamental due process shall be observed and govern the proceedings.

3. The Department shall provide personnel to act as Clerk to the Child Care Advisory Council for the purpose of the hearings and retention of the record.

D. The Council shall issue its recommended order within fifteen (15) days of said hearing, stating that the license is issued, retained, revoked or denied as the case may be. Said order shall be sent to the applicant or licensee by Registered or Certified mail, Return Receipt requested. The Child Care Advisory Council's written order shall be considered final agency action.

E. Within thirty (30) days after the Child Care Advisory Council issues its written order, any person whose substantial interests have been determined by the Council's decision shall have the right to seek review of said order by petitioning the Circuit Court in and for Palm Beach County by a *writ of certiorari*.

## **ARTICLE VI – PERSONNEL, STAFF QUALIFICATIONS & SUPERVISION**

### **A. MINIMUM AGE REQUIREMENTS**

The operator of a family day care facility must be at least twenty-one (21) years of age. Substitutes must be at least eighteen (18) years of age.

### **B. TRAINING**

1. Prior to licensure, all family day care home operators must successfully complete the Department of Children and Families' thirty (30) -clock-hour Family Child Care Home training, as evidenced by passage of a competency based examination with a score of seventy (70) or better. The Department of Children and Families, or its designated representative, will offer competency examinations. Prior to attending the training, Family Day Care Home operators have one opportunity, if they choose, to exempt from the Department of Children and Families' thirty (30) -clock-hour Family Child Care Home training module by successfully completing competency examinations with a score of seventy (70) or better. All family day care home operators who have successfully completed the mandatory 30-clock-hour Family Child Care Home training prior to the availability of the competency examinations will not be required to complete the competency based testing.
2. Family day care home substitutes who work forty (40) hours or more a month on average during a twelve (12) month period must successfully complete the thirty (30) -clock-hour Family Child Care Home training, as evidenced by passage of a competency based examination with a score of seventy (70) or better. All family day care home substitutes who have completed the thirty (30) -clock-hour Family Child Care Home training prior to the availability of the competency examination will not be required to complete the competency based testing. Prior to attending the training, Family Day Care Home substitutes have one opportunity, if they choose, to exempt from the Department of Children and Families thirty (30) -clock-hour Family Child Care Home training by successfully completing competency examinations with a score of seventy (70) or better. Competency examinations will be offered by the Training Coordinating Agency. Family day care home substitutes who work less than forty (40) hours a month on average during a twelve (12) month period shall complete the Department of Children and Families three (3) -clock-hour Fundamentals of Child Care training. Family day care substitutes who have successfully completed the thirty (30) -clock-hour Family Child Care Home training will not be required to complete the three (3) -clock-hour Fundamentals of Child Care training.
3. Training Documentation:  
Training certificates are issued or training transcripts are updated upon the successful completion of training, as evidenced by the passage of a competency examination. The (30) -clock-hour Family Child Care Home training will be documented on CF-FSP Form 5267, May 2003, and the Department of Children

and Families' child care training transcript. A copy of the Department of Children and Families' Family Child Care Training Certificate or training transcripts must be kept on file in the family day care home.

4. Prior to licensure, the operator and substitute(s) must hold a current certification in First-Aid and in infant and child cardiopulmonary resuscitation (CPR). The First-Aid course may be the Red-Cross Standard First-Aid or its equivalent. The infant and child cardiopulmonary resuscitation course may be the course provided by the American Red Cross, the American Heart Association, or a pediatric cardiopulmonary resuscitation course equivalent. These courses must be completed prior to licensure. Certificates of course completion are valid based on the time frames established by each First-Aid and CPR training program, First-Aid not to exceed three (3) years, and CPR not to exceed two (2) years. On-line First Aid and CPR courses are not acceptable to meet this standard. First Aid and CPR training must be done by real time classroom instruction. The First-Aid training or CPR course cannot be substituted for any part of the Department of Children and Families' thirty (30) -clock hour family day care course. Certifications in CPR and First Aid shall be kept current by renewal prior to their effective expiration dates.
5. All family day care operators, adult family members and substitutes shall have a statement on file at the facility that they have read the Department of Children and Families' pamphlet "Child Abuse and Neglect in Florida, A Guide for Professionals", CF-PI 175-17 for guidelines on reporting and identifying child abuse and neglect, or participate in an equivalent child training course approved by the Department of Children and Families. The pamphlet: "Child Abuse and Neglect in Florida, A Guide for Professionals", and the form to be used, shall be provided by the Department for this purpose.

#### 6. **Immunization & Health Records Training**

Facility operators shall complete the two (2) hour Immunization & Health Records training provided by the Department within six (6) months from the date of original licensure. Facility operators licensed prior to the effective date of these Rules shall complete this training by June 30, 2008.

#### 7. **Training in Early Literacy & Language Development**

In addition to the training above, all operators, and substitutes of family day care homes who work forty (40) hours or more a month on average during a twelve (12) month period, shall complete five (5) -clock-hours or .5 continuing education unit (CEU) of training in early literacy and language development of children from birth to five (5) years of age, as documented on the certificate of course completion, classroom transcript, or diploma. Family Day Care Homes licensed on or after January 1, 2005, prior to licensure, must complete five (5) -clock-hours or .5 continuing education unit (CEU) of training in early literacy and language

development of children from birth to five (5) years of age. In order to meet this requirement, all operators, and substitutes of family day care homes who work forty (40) hours or more a month on average during a twelve (12) month period must select a training course from the Department of Children and Family Services' list of approved literacy training programs, which may be accessed by going to the website:

[www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training),

or by contacting the Department. Literacy training that was taken between July 1, 1999 and July 1, 2004, will be accepted by the licensing authority until January 1, 2005, if it meets all the required components stated above.

#### **8. Child Care Water Safety Course, Basic Water Safety and Certified Lifeguard**

Where there is a swimming pool (other than a spa) on the premises, applicants for a family day care license shall satisfactorily complete a Child Care Water Safety Course or the current equivalent prior to the issuance of a license. Family day care providers with a swimming pool (other than a spa) on the premises, licensed prior to the effective date of these Rules, and their respective substitutes, shall complete this training within six (6) months of the effective date of these Rules. If the family day care home uses a swimming pool at the family day care home site for the children in care, at least one (1) additional person who has completed a basic water safety course such as the one offered by the American Red Cross, YMCA or other organization, must be present when children in care are using the pool to assist in providing adequate supervision and to assist in the event of an emergency.

#### **9. Annual In-Service Training.**

(A) All family day care home operators, must complete a minimum of ten (10) -clock hours of in-service training or one (1) CEU, annually during the state's fiscal year beginning July 1 and ending June 30. The annual ten (10) -clock hours in-service training or one (1) CEU, must be completed in one or more of the following areas:

- (i) Health and Safety, including universal precautions;
- (ii) CPR;
- (iii) First Aid (this training may only be taken to meet the in-service requirement once every three {3} years);
- (iv) Nutrition;
- (v) Child development – typical and atypical;
- (vi) Child transportation and safety;
- (vii) Behavior management;
- (viii) Working with families;
- (ix) Design and use of child oriented space;
- (x) Community, health and social service resources;

- (xi) Child abuse;
- (xii) Child care for multilingual children;
- (xiii) Working with children with disabilities in child care;
- (xiv) Safety in outdoor play;
- (xv) Literacy;
- (xvi) Guidance and Discipline;
- (xvii) Computer Technology;
- (xviii) Leadership development/program management and staff supervision;
- (xix) Age appropriate lesson planning;
- (xx) Homework assistance for school age care;
- (xxi) Developing special interest centers/spaces and environments; or
- (xxii) Other course areas relating to child care or child care management.

- (B) Documentation of the in-service training must be recorded on CF-FSP Form 5268, Feb. 2004, Child Care In-Service Training Record, which is incorporated herein by reference, or an equivalent form provided by the Department, and maintained at the family day care home. CF-FSP Form 5268 may be obtained from the licensing authority or by going to the Department of Children and Families' website at:

[www.myflorida.com/childcare/training](http://www.myflorida.com/childcare/training).

A new in-service training record is required each fiscal year. In addition to maintaining the training record for the current fiscal year, the in-service training records for the previous two (2) fiscal years must also be maintained at the family day care home for review by the licensing authority. College level courses that cover the topics above may also be counted to meet the annual in-service training requirement.

### **C. HEALTH EXAMINATIONS**

At the time of licensure, the operator and substitute(s) shall have on file a statement attesting that they are physically qualified to care for children. This medical statement shall be completed within the preceding six (6) months by a person given authority by Florida Statutes to perform medical examinations. Evidence of freedom from tuberculosis, as indicated by an approved TB risk assessment and/or an approved skin test or X-ray administered within the preceding six (6) months, shall be provided upon initial licensure, and every two (2) years thereafter for the operator, substitutes, and all adult family and household members over the age of twelve (12) years. Physical examinations of the operator and substitute shall be renewed every two (2) years.

### **D. SUPERVISION OF CHILDREN**

1. At all times, which includes when the children are sleeping and napping, the operator or authorized substitute shall remain responsible for the supervision of the children in care, and capable of responding to the emergencies and needs of the children. During the hours of operation, children shall have adult supervision, which means watching and directing children's activities, both indoors and outdoors, and responding to each child's needs. The operator may not provide care for children for more than 12 hours continuously per day or per twenty-four hour period.
2. A child who has been placed in an isolation area due to illness must be within sight and hearing of the operator or authorized substitute at all times.

#### **E. SUBSTITUTE/EMERGENCY ARRANGEMENTS**

1. There shall be a written plan to provide at least one (1) other authorized adult, to be available to substitute for the operator in an emergency or on a temporary basis. This plan shall include the name, address, and telephone number of the designated authorized substitute(s), and shall be furnished to the parent. In the absence of the family day care operator, the substitute may serve as a temporary replacement for the operator. For the purposes of this section, the term "temporary" shall be considered on a case by case basis, but in no event shall this period exceed fifteen (15) consecutive days.
2. The substitute(s) shall hold current certification in CPR and First-Aid.
3. The operator of the family day care home must sign a statement attesting to the number of hours the substitute(s) work(s) in their home. This shall be maintained and kept up-to-date on file at the facility. The facility operator shall advise the Department in writing of any change in the number of hours the substitute(s) work(s) in their home, within seven (7) days of such change occurring.
4. It is the intent of these Rules that the operator be the primary caregiver for children in care during the hours of operation of the family day care facility. During the operating hours of the facility, the substitute(s) shall not provide care to children on a regular basis, as in such case, the operator is not the primary caregiver.
5. An individual may serve or be listed as a substitute for more than one licensed family day care provider or child care facility.
6. An individual shall not serve as a substitute in excess of 40 hours per month on average during a twelve (12) month period in any one family day care home for which they have been identified as the designated substitute. In addition, a substitute may not provide care for children for more than 12 hours continuously

per day or per twenty-four hour period.

7. A licensed family day care provider with an operational family day care home, shall not serve as substitute for another family day care provider, or child care facility.
8. A licensed family day care provider, with a non-operational family day care home (no children currently enrolled), may serve as a substitute for a single child care facility or may serve as substitute for one (1) of up to two (2) other family day care facilities, provided that each of these other family day care operators has one (1) other substitute that is not a licensed family day care provider. In the event that a licensed family day care provider serves as a substitute at a child care facility or serves family day care substitute, the provider shall notify the Department of the following in writing:
  - a. The status of the licensed family day care home and date that the facility became non-operational;
  - b. The names of the child care facility or family day care home(s) where the provider will be serving as a substitute;
  - c. The date that the provider's family day care home returns to operational status.

## **ARTICLE VII - BACKGROUND AND SCREENING REQUIREMENTS**

- A. At the time application is made for a license, all personnel of a family day care shall submit to the Department a complete set of fingerprints taken by an authorized law enforcement agency.

For the purpose of issuing a license, any out-of-state criminal offense, which if committed in Florida, would constitute a disqualifying felony offense, shall be treated as a disqualifying felony offense for screening purposes under this rule.

Any new personnel not screened at the time of licensure shall, within five working days after coming within the provisions of these Rules, submit to the facility a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the Department who is trained to take fingerprints. The facility is responsible for submitting said fingerprints to the Department within forty-eight (48) hours of receipt.

The Department shall review the record of the person being screened with respect to the crimes contained in Section 435.04(2), F.S., as amended or replaced, and shall notify the facility of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within thirty (30) days the missing disposition information to the Department.

- B. All personnel must be of good moral character in order to operate a family day care home as determined through Level 2 screening and background checks conducted as provided in Chapter 435, F.S., as amended or replaced. All personnel of the facility must attest, under penalty of perjury they have complied with the minimum standards of good moral character as contained in Section 435.04, F. S., as amended or replaced.
- C. The Department of Children and Families or the Department shall conduct the screening and background checks for operators, substitutes, family and household members. The screening and background checks include a one time employment history for the previous two (2) years, three (3) letters of reference, two (2) must be from persons not related, Juvenile Records Check through the Florida Department of Law Enforcement, an Information Caretaker Background Screening Form, local, state, and federal criminal records check. The federal criminal records checks require the submission of fingerprints in accordance with Section §§ 402.305 and 402.3055, F.S., as amended or replaced.

Additions and exemptions to the screening and background checks are as follows:

1. Every member of the family day care home operator's family and every person residing in the family day care home must be screened in the same manner as

defined in Article VII C. of these Rules. If such individuals are between the ages of twelve (12) and seventeen (17) years, the individuals are not required to be fingerprinted but shall be screened for delinquency records through the Florida Department of Law Enforcement. Individuals under twelve (12) years of age are not required to be screened.

2. Those persons providing substitute care in the absence of the family day care home operator must be screened in the same manner as defined in Article VII, C. of these Rules.
3. Every five (5) years a state correspondence criminal records check and an annual local records check is to be submitted to the Department.
4. An Affidavit of Good Moral Character shall be completed and notarized annually for the operator, household members eighteen (18) years of age or older, and substitutes.

D. Factors to be considered in determining good moral character shall include the following minimum requirements:

Good moral character based upon screening. Such minimum standards for screening shall ensure that no child care personnel at a family day care facility have been found guilty of, regardless of adjudication, or entered a plea of *nolo contendere* or guilty to any offense or felony prohibited under any of the following provisions of the Florida Statutes, or under a similar statute of another jurisdiction:

Section: 393.135	relating to sexual misconduct with certain developmentally disabled clients
Section: 394.4593	relating to sexual misconduct with certain mental Health patients
Section: 415.111	adult abuse, neglect, or exploitation of aged persons or disabled adults
Section: 741.30	domestic violence and injunction for protection (defined in 741.28) means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, etc. of a family or household member
Sections: 782.04	murder
782.07	manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child
782.071	vehicular homicide

	782.09	killing an unborn child	killing an unborn child by injury to the mother
Sections:	784.011	assault, if the victim of	assault, if the victim of offense was a minor
	784.021	aggravated assault	
	784.03	battery, if the victim of	battery, if the victim offense was a minor
	784.045	aggravated battery	
	784.075	battery on a detention	battery on a detention or commitment facility staff
Sections:	787.01	kidnapping	
	787.02	false imprisonment	
	787.04(2)	taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings	
	787.04(3)	carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person	
Sections:	790.115(1)	exhibiting firearms or weapons within 1,000 feet of a school	
	790.115(2)(b)	possessing an electric weapon or device, destructive device, or other weapon on school property	
Sections:	794.011	sexual battery	
	794.041	prohibited acts of persons in familial or custodial authority (former)	
Chapter:	796	Prostitution	
Section:	798.02	lewd and lascivious behavior	
Chapter:	800	lewdness and indecent exposure	
Section:	806.01	arson	
Chapter:	812	felony theft and/or robbery and related crimes, if a felony	
Section:	817.563	fraudulent sale of controlled substances, if the offense was a felony	
Sections:	825.102	abuse, aggravated abuse, or neglect of disabled adults or elderly persons	
	825.1025	lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult	

	825.103	exploitation of disabled adults or elderly persons, if the offense was a felony
Section:	826.04	incest
Sections:	827.03	child abuse, aggravated child abuse, or neglect of a child
	827.04	contributing to the delinquency or dependency of a child
	827.05	negligent treatment of children
	827.071	sexual performance by a child
Sections:	843.01	resisting arrest with violence
	843.025	depriving an officer means of protection or communication
	843.12	aiding in an escape
	843.13	aiding in the escape of juvenile inmates in correctional institution
Chapter:	847	obscene literature
Section:	874.05(1)	encouraging or recruiting another to join a criminal gang
Chapter:	893	drug abuse prevention and control only if the offense was a felony or if any other person involved in the offense was a minor
Section:	916.0175	relating to sexual misconduct with certain forensic clients
Sections:	944.35(3)	inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm
	944.46	harboring, concealing, or aiding an escaped prisoner
	944.47	introduction of contraband into a correctional facility
Sections:	985.4045	sexual misconduct in juvenile justice programs
	985.4046	contraband introduced into detention facilities

For purposes of this subsection, a finding of delinquency, or a plea of *nolo contendere* or other pleas amounting to an admission of guilt to a petition alleging delinquency pursuant to Part II of Chapter 39 F.S., as amended or replaced, or similar statutes of other jurisdictions, for any of the foregoing acts, has the same effect as a finding of guilt, regardless of adjudication or disposition.

- Standards for screening shall also ensure that the person has not been judicially determined to have committed abuse or neglect against a child as defined in Section §§ 39.01(2) and (37), as amended or replaced;
- Pursuant to Section § 435.07, Florida Statutes, as amended or replaced, the Department of Children and Families, may grant to any person an exemption from

disqualification from working with children or the developmentally disabled for the following:

- (a) Felonies committed more than three (3) years prior to date of disqualification. For the purpose of this subsection, the term "felonies" means both felonies prohibited under any of the Florida Statutes cited in this chapter or under similar statutes of other jurisdictions;
  - (b) Misdemeanors prohibited under any of the Florida Statutes cited in this subsection or under similar statutes of other jurisdictions;
  - (c) Offenses which were a felony when committed but are now a misdemeanor;
  - (d) Findings of delinquency as specified in this subsection;
  - (e) Commissions of acts of domestic violence as defined in §§ 741.30 F.S., as amended or replaced.
  - (f) Exemptions granted by one licensing agency shall be considered by subsequent licensing agencies, but are not binding on the subsequent licensing agency.
4. In order to grant an exemption to a person, the Department of Children and Families must have clear and convincing evidence to support a reasonable belief that the person is of good moral character so as to justify an exemption. Persons seeking exemption have the burden of setting forth sufficient evidence of rehabilitation.
- E. While children are in care, alcohol use is prohibited within the family day care home and all outdoor areas of the home. No person while using, or who is under the influence of narcotics, alcohol or other drugs, which impair their ability to provide supervision and safe child care, shall be an operator, substitute or employee of a family day care home. No person shall be an operator, substitute or employee of a family day care home who:
1. Is a habitual or excessive user of alcohol.
  2. Illegally uses narcotics or other impairing drugs.
  3. Had a confirmed report of adult and/or child abuse, neglect or exploitation as defined in Section §§ 415, F.S., as amended or replaced.
  4. Has falsified application information.

F. The costs of processing fingerprints and the state and local criminal records checks shall be borne by the applicant or the personnel being screened.

**G. Consideration of Applicant's History –**

The Department shall include on the application for a family day care license a question asking the applicant, owner, or operator if any such person has ever had a license denied, revoked, or suspended in any state or jurisdiction or has been the subject of a disciplinary action or has been fined as the operator of a family day care facility or while owning, operating or employed at a child care facility. The applicant, owner, or operator shall attest to the accuracy of the information requested under penalty of perjury. If the applicant, owner, or operator admits that he/she has been a party in such action, the Council shall review the nature of the suspension, revocation, disciplinary action, or fine before granting the applicant a license to operate a family day care facility. If the Council determines as the result of such review that it is not in the best interest of the State or County for the applicant to be licensed or obtain a license shall not be granted in accordance with the procedures set forth in Article V (A) herein.

## ARTICLE VIII - PHYSICAL FACILITY

### A. GENERAL

1. All local building and fire, health and licensing requirements must be met and maintained. Approval of applicable Building and Fire Departments is mandatory prior to licensure, unless specifically exempted herein. The family day care operator shall advise the Department in writing of any change to the home or premises requiring a permit, and shall provide a set of related floor plans and/or site plans to the Department for review and approval prior to such changes being made.
2. The family day care home shall have lighting to allow direct supervision of children, and safe entering and exiting each room. At all times lighting must be sufficient to visually observe and supervise children, including naptime.
3. Electrical outlets shall be capped when not in use. Electric wiring shall not be placed so that it presents a tripping hazard. Extension cords shall not be used as permanent wiring. In addition, electrical power cords shall not be readily accessible to children.
4. Portable electric fans shall be screened and out of the children's reach.
5. Household pets, animals or fowl, must be free of disease, and properly immunized, if immunizations are available for the type of animal, pet or fowl. Documentation of such immunization shall be maintained, kept current, and be made available to the Department upon request. In addition, license documentation shall be maintained, kept current, and be made available to the Department for any animal, pet or fowl that is required to be licensed. Any animal which according to the records of the Palm Beach County Animal Care and Control Services Division has bitten a human more than once, or has exhibited aggressive behavior, or has been declared dangerous pursuant to Palm Beach County Animal Care and Control Ordinance 98-22, as amended or replaced, or any comparable law, shall not be on the property of the family day care home.

It is the responsibility of the operator or authorized substitute(s) to ensure that children do not come into contact with animals that might endanger a child's safety. Large or potentially dangerous animals shall remain leashed or otherwise restrained in a secured enclosure away from contact with children in care. For the purposes of this section, a secured enclosure shall mean a locked pen or structure constructed to prevent an animal from escaping over, under or through the enclosure. The enclosure shall have secure sides and a top, pursuant to Palm Beach County Animal Care and Control Ordinance 98-22, as amended or replaced.

6. All areas, surfaces or items accessible to children shall be free of toxic substances and hazardous materials including lead paint. This includes outer surfaces of buildings, fences or play equipment. All cleaning supplies and other potentially poisonous or dangerous supplies shall be plainly labeled. Such products shall be

stored in a key locked cupboard, box or cabinet unless actively in use by the family day care provider or substitute. Purses of family day care personnel shall be inaccessible to children.

Any product that bears a warning on the label KEEP OUT OF THE REACH OF CHILDREN, or words or symbols to that effect, shall be presumed to be potentially poisonous or dangerous.

There shall be a separate key locked storage area for medicine.

7. Any containers of alcohol, including liquor and wines, shall be stored out of the reach of children. In addition to these items, knives and sharp tools shall be stored in locations inaccessible to the children in care, and shall be stored in a fashion that sharp edges are not readily accessible upon opening their storage areas.
8. Products that produce irritating odors or toxic fumes shall not be used while children are present.
9. Food handling procedures and a safe environment must be provided to insure the health, safety, and comfort of the children.
10. All family day care home operators shall inform parents if someone living in the home smokes. Pursuant to Chapter 386, Florida Statutes, during the hours of operation, while children are in care, smoking is prohibited within the family day care home, and all outdoor play areas.
11. The home must have proper ventilation and a safe and approved source of heat. An inside temperature of 72° to 82° Fahrenheit must be maintained at all times during operation of the facility. A reliable thermometer shall be provided in a major indoor area of the facility.
12. Space heaters, and non-vented open flame heaters are prohibited. Fire places shall be vented. Heaters and fireplaces shall be shielded so that they present no danger and a child cannot come in contact with the surface.
13. Family day care facilities shall be located on well-drained sites, easily accessible by vehicles. They shall not be located where excessive noise, odors, dust, smoke, or traffic interfere with the children's comfort.
14. The Family Day Care Facility is to be located either:
  - a. on the first (1<sup>st</sup>) floor at ground level only, or
  - b. on the first (1<sup>st</sup>) two (2) floors (ground level plus one {1}) if located in a single family dwelling unit. All facilities shall have at least one (1) exit, and a second (2<sup>nd</sup>) means of escape from each level. The second (2<sup>nd</sup>) means of

escape shall consist of either a door leading outside at or to ground level, or an outside window which can be opened from the inside without the use of tools to provide a clean opening of not less than twenty inches (20") in width and twenty-four inches (24") in height with a minimum of 5.7 square feet in area. The bottom of the opening cannot be more than forty-four inches (44") above the floor of the room.

Exception - Infant care shall be permitted on the first (1<sup>st</sup>) floor (ground level) only.

15. All facilities shall develop and post, in a conspicuous location, a written Emergency Evacuation Plan to be used during emergencies and fire drills. This Emergency Evacuation Plan shall include a diagram of safe routes by which family day care personnel and children may exit each area of the facility in the event of fire or other emergency requiring evacuation. Fire drills shall be conducted monthly, using the Emergency Evacuation Plan, and shall be conducted at various times when children are in care. Documentation showing the date, number of children in attendance, and time taken to evacuate the premise shall be maintained and kept on file for one (1) year.
16. All buildings shall be rodent proof and all openings to the outer air shall be effectively screened. The building and premises shall be free of rodents and vermin. Should they occur at the facility, rodents and vermin shall be exterminated. Pest control shall not take place while the facility is occupied by children in care.
17. There must be at least one operable corded telephone in the facility and, if conditions indicate, additional telephone or extensions to summon help in case of fire or other emergencies. The phone shall be operable even in the event of a power outage in the home.

Coin operated telephones shall be prohibited. Telephones shall be located so as to be easily accessible from all parts of the building during the hours that family day care home operates. Family day care homes that have a swimming pool or spa on the premises, shall also have a telephone located in the area of the pool or spa. The family day care home operator shall advise the Department immediately in the event that there is a change to the facility phone number. All emergency telephone numbers including, but not limited to, fire, police, poison control center, ambulance, Florida Abuse Registry, and the Department, and the address of and directions to the family day care home, shall be posted on or near all phones and shall be used to protect the health safety and well-being of any child in care. To meet the immediate needs of the child, family day care home operators shall call 911 or other emergency numbers in the event of an emergency.

Regional Poison Control Center	Tampa General Hospital 1-800-282-3171 National Poison Control Hotline. If 1-800 is busy, call (813) 253-4444 <b>OR</b> the National Poison Control Center
National Poison Control Center	1-800-222-1222
Emergency Number (Fire, Police & Medical)	911
Florida Abuse Hotline	1-800-96-ABUSE 1-800-962-2873
Palm Beach County Health Department	North & Central County Area: 561-355-3018 South County Area: 561-274-3187 Far West & Glades Area: 561-966-1633
A.G. Holley Hospital	561-582-5666
E.O.C. (Emergency Operations Center)	561-712-6400

18. Water Supply - There shall be an adequate supply of potable water, meeting the quality standards of Chapter 17-22, Florida Administrative Code, as amended or replaced, and Standards of Palm Beach County as adopted under Palm Beach County Ordinance 78-5 and subsequent revisions. Potable drinking water shall be available to children of all ages at all times. If disposable cups are used they must be discarded after each use.
19. Waste Disposal - All sewage shall be disposed of as required by Chapter 64E-6, Florida Administrative Code, as amended or replaced, and Palm Beach County Environmental Control Rule One (1) Unified Land Development Code, Article 15, as amended or replaced.
20. Firearms shall be kept unloaded in a locked closet or cabinet and out of the reach of children, and shall be in compliance with §§ s. 790.174 F.S., as amended or replaced. Ammunition shall be stored separately from firearms and under key-lock. Firearm cases or racks shall be key locked to prevent removal of firearms by children, and shall not be housed in areas of the home used for the care of children.

## **B. INDOOR SPACE**

There shall be a collective minimum of thirty-five (35) square feet per child of usable activity space exclusive of semi-permanent appliances and fixtures, including but not limited to refrigerators, stoves, countertops, built in cabinetry, bathrooms, and passageways. Kitchens, offices, laundry rooms, storage areas, and other areas not used in normal day-to-day operations are not included in determining usable indoor floor space. Facilities licensed prior to October 1, 1992, not meeting this requirement (of 35 square feet per child) as of October 1, 1992, shall be exempt from this requirement.

## **C. OUTDOOR SPACE**

There shall be adequate outdoor space on the premises. Children must be under direct adult supervision when playing outdoors. The outdoor play area shall be clean, free of litter, nails, glass, and other obvious hazards. All equipment shall be safely installed and properly maintained. All equipment shall be free of sharp and jagged edges. Sand or sawdust boxes used in outdoor play areas shall be constructed to allow for drainage and maintained in a safe and sanitary condition. These are to be covered at all times when not in use.

1. All family day care applicants shall submit site plans for review. Licensure shall be subject to plan approval.
2. The outdoor play space shall be fenced, a minimum of four (4) feet in height.
3. The play area shall have adequate sun, with provision for shade in warm weather.
4. Water Hazards: Water hazards, including but not limited to lakes, ditches, ponds, brooks, canals, wading pools, except sit pools, shall be fenced (minimum height of four {4} feet) and key locked to keep the water hazards out of reach of children. Removable pool fences, where provided, shall be installed by the manufacturer or licensed contractor. Sit pools used in accordance with these Regulations specified in Article VIII.C.5. shall not be classified as a water hazard.

The operation of a family day care facility at a home with a swimming pool, hot tub or spa is prohibited. Exception: All in-ground swimming pools and above-ground swimming pools, shall have either a fence or barrier on all four sides, a minimum of four (4) feet in height, separating the home from the swimming pool. The fence or barrier may not have any gaps or openings that could allow a young child to crawl under, squeeze through, or climb over the barrier. All spas and hot tubs must meet the same barrier requirements for in-ground and above-ground swimming pools, or instead, spas and hot tubs may be covered with a safety cover, as defined in Section 515.25(1), F.S., as amended or replaced, that complies with ASTM F1346-91 (Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Hot Tubs, and Spas, as amended or replaced) at all times when children are in care. The

exterior wall of the home, if it has ingress and egress, does not constitute a fence or barrier. All doors or gates in the fence or barrier shall be locked at all times when children are in care and when the pool is not being used by the children in care. In addition to the fence, or barrier, the family day care home operator shall ensure that all exterior doors leading to the pool, spa, or hot tub area remain locked at all times while children are in care. Barriers may be temporary in nature but must be sturdy and meet all the above requirements and be in place during all times when children are in care. The wall of an aboveground swimming pool may be used as its barrier; however, such structure must be at least four (4) feet in height. In no event shall a screened enclosure serve as a barrier. In addition, any ladder or steps that are the means of access to an aboveground pool must be removed at all times while children are in care and when the pool is not being used by the children in care.

5. Any swimming or wading pool used by children in care must be constructed and operated in compliance with Chapter 64E-9, of the Florida Administrative Code, "Public Swimming Pools and Bathing Places", as amended or replaced, and the Florida Uniform Building Code, as amended or replaced, and these Rules.
6. If the family day care home uses a swimming pool, it shall be maintained by using chlorine or other suitable chemicals.
7. Sit Pool - A pool designed for, and used by children for purposes of play. Said pool shall have a diameter of no more than five (5) feet and depth of less than one (1) foot. Water in sit pools must be completely changed every two (2) hours. Said pools shall be cleaned with a bleach solution between uses. When not in use, said pool must be emptied and stored in a secure area separate from the children's play area, in manner so as not to collect standing water. When in use, the operator or authorized substitute must constantly and directly supervise the children using the pool.

#### **D. SLEEPING AND NAPPING SPACE**

1. Each home must include a designated area where each child can sit quietly or lie down to rest or nap.
2. Infants up to the age of twelve (12) months must nap or sleep in cribs with sides. Cribs must meet the construction regulations as outlined in Title 16, Parts 1508 & 1509, Code of Federal Regulations, as amended or replaced. Sturdy playpens may be substituted for cribs. The sides must be raised and secured while an infant is in the crib or playpen. Cribs and playpens with bases which rest on the floor shall not be used. No double or multi decked cribs, cots or beds may be used. Exception: previously licensed facilities utilizing multi-decked cribs prior to the effective date of these rules, may continue to use them, provided that they are used in accordance with manufacturer's specifications, and such specifications

are maintained on site at the facility and made available to the department upon request. Such use may not continue beyond June 30, 2010.

Pillows are prohibited in cribs or playpens, and shall not be used. Blankets, if used, shall be arranged so that infants' upper bodies remain visible to staff at all times. Crib bumpers and crib bumper pads shall not be used.

3. When napping or sleeping, infants that are not capable of rolling over on their own should be positioned on their backs and on a firm surface to reduce the risk of Sudden Infant Death Syndrome (SIDS), unless an alternate position is authorized in writing by a physician. This documentation shall be maintained in the child's record.
4. Children over 2 (two) years old may sleep on beds used by the family provided that a sheet solely for the use of each child covers the bedding. Bedding means a cot, crib, mattress, playpen or floor mat. Air mattresses and foam mattresses may not be used for napping.
5. When napping, each child in care must be provided with safe and sanitary bedding and shall have a separate bed, cot, crib, playpen, or floor mat, except that two (2) sibling preschool children may share a double bed. If floor mats are used they shall be at least one inch thick and covered with an impermeable, easily cleanable material. Bedding shall be sanitized at least daily or more frequently as needed. Cots and mats shall be sanitized on a weekly basis, or more frequently as needed, where individual cots and mats are assigned to specific children for use. In this case, the facility shall maintain on site a current record of bedding assignments.
6. A minimum distance of eighteen (18) inches shall be maintained on all sides between individual napping spaces. Napping spaces shall not be designated in kitchens, bathrooms, utility rooms, or garages.
7. If separate rooms are used for napping, the doors of these rooms shall remain open to enable the operator to provide adequate supervision and allow the operator to respond to emergencies and needs of the children.
8. There shall be no more than two (2) rooms used for sleeping and said rooms shall be in close proximity to each other.

## **E. TOILET AND BATH FACILITIES**

1. The home shall have at least one (1) toilet, and one (1) bathing facility and one (1) lavatory for hand washing provided with soap and towel(s). Each child shall have his own individually labeled towel and wash cloth if disposable towels and wash cloths are not used. If disposable towels are used, they shall be discarded after each use.
2. For infants and other children in diapers, there shall be in addition at least one (1) portable infant seat or potty chair and one (1) portable bathing facility. These shall be kept in a sanitary condition and sanitized after each use. In addition, there shall be a diaper changing table, with an impermeable surface which is cleaned with a sanitizing solution after each use.
3. Children shall be continuously supervised when bathing, being diapered or when changing clothes.

#### **F. ISOLATION AREA**

The home shall have an area for a child who becomes ill, where he or she is subject to close observation for any changes in condition. The designated isolation area shall be located on the ground floor.

#### **G. EQUIPMENT**

1. Indoor Equipment - The home shall have equipment and toys which are safe, age appropriate, and can be maintained in a safe and sanitary condition.
2. Outdoor Equipment - There shall be play equipment to provide suitable and age appropriate activities for the children. All equipment shall be safely installed and maintained in a safe and sanitary condition.

## **H. CLEANLINESS AND ORDERLINESS**

1. All parts of the home, furnishings, equipment, plumbing and the premises shall be kept clean, sanitary, free of hazards, in an orderly condition and in good repair at all times. The storage of accumulated debris, dilapidated and or unnecessary equipment, furnishings and materials in the home and on the premises shall be prohibited.
2. The family day care activity areas shall be organized to provide an orderly atmosphere and to maximize possibilities for satisfying play.
3. Soiled items shall be placed in plastic-lined, covered containers which are not accessible to children. The container shall be emptied, cleaned, and disinfected daily. Children's wet or soiled clothing and crib sheets or other linens shall be changed promptly.
4. The operator and substitutes shall wash their hands with soap, running water and friction, drying thoroughly after having assisted children with diapering, toileting or personal hygiene procedures, as well as following and prior to food preparation. Children shall wash their hands with soap, running water and friction, drying thoroughly after toileting or personal hygiene procedures, and prior to meals, with the assistance of the operator or substitute(s) if necessary.
5. All toys used by infants must be sanitized daily.

## **I. ACCESS**

1. The Department has the right to access the entire family day care home, including any and all locked rooms, any and all buildings on the premises, any and all outdoor areas whether fenced or not, all records required to be kept by these Rules and Regulations, and to inspect for compliance with these Rules and Regulations.
2. A family day care facility must provide the custodial parent access, in person and by telephone to the family day care facility during normal hours of operation.

## **J. FIRE SAFETY AND EMERGENCY PLANNING**

1. All facilities shall meet or exceed all applicable State Fire Marshall Rules and Regulations as set forth in 69A-3.012, Florida Administrative Code, as amended or replaced, including at least one (1) operable fire extinguisher with a current certificate and one (1) smoke detector on each floor of the family day care home. There shall be a minimum of two (2) operable smoke

detectors installed in homes with split floor plans.

Mobile homes as defined by Chapter 320, Florida Statutes, as amended or replaced, shall not be utilized for family day care facilities. Exception: those mobile homes completely protected by an automatic fire suppression system installed in accordance with National Fire Protection Association (NFPA) 13-D, as amended or replaced.

2. The building and property shall be free from fire hazards.
3. The facility shall develop an Emergency Plan For Response To Violent Weather. The plan shall address the identification of violent weather, a procedure to quickly have the children return to the shelter of the building if the adverse weather occurs at the facility, and a procedure when the children are away from the family day care home on a field trip. Impending violent weather includes, but is not limited to, observable lightning, thunder, thunder storms, hurricanes, hail and tornadoes. Each plan shall specifically include immediate removal of all children from outdoor play areas during rainfall or whenever lightning is visible on the horizon or thunder is audible. Each plan shall include taking and recording attendance of children in the event of evacuation or relocation. Each plan shall include responses to violent weather during field trips and transportation of children. This plan shall be available on site for review by the Department. The family day care home must have a plan to follow local weather forecasts and plan activities accordingly.
4. After a fire or natural disaster, the operator or substitute(s) must notify the Department, within twenty-four (24) hours, in order to ensure that health standards are met for continued operation as a family day care home. In the event that the Department is not accessible by routine access phone numbers, the operator shall contact A. G. Holley Hospital or the Palm Beach County Emergency Operations Center for further information.
5. In the event that a state of emergency is declared for Palm Beach County, the Department shall have the authority to enact appropriate interim policies and procedures to ensure the health, safety, and well-being of children in care.
6. In the event of extensive renovation or re-modeling of the family day care home, or the installation of burglar bars or security bars on doorways or windows of the family day care home, the family day care operator shall provide the Department with copies of the approvals from the applicable building department within thirty (30) days from the date of completion. In addition, an inspection by the Fire Authority Having Jurisdiction shall be completed and a copy of the satisfactory inspection provided to the Department within thirty (30) days from the date of completion.

7. In order to continue the provision of night time care, family day care facilities previously approved for night time care, shall submit a new written request for approval, along with copy of a satisfactory inspection by the Fire Authority Having Jurisdiction, completed within six (6) months of the effective date of these Rules.

A family day care operator, making initial application for night time care approval, shall submit a copy of a satisfactory inspection by the Fire Authority Having Jurisdiction. Such inspection shall be completed within thirty (30) days of the application for nighttime care approval.

**ARTICLE IX**  
**MEDICINES, FIRST-AID AND EMERGENCY MEDICAL PROCEDURES**

**A. FIRST-AID TREATMENT**

The home shall contain a first aid kit that shall be accessible to the operator and kept out of the reach of children. The kit must include:

1. Soap,
2. Band-Aids or equivalent,
3. Disposable latex gloves (in a puncture proof container),
4. Cotton balls or applicators,
5. Sterile gauze pads and rolls,
6. Adhesive tape,
7. Thermometer
8. Tweezers,
9. Pre-moistened wipes,
10. Scissors, and
11. A current resource guide on first-aid and CPR procedures.

These supplies shall be kept in a covered container which is labeled "First-Aid" and kept in a designated location. A first-aid manual shall also be accessible.

**B. EMERGENCY PROCEDURES**

1. Written permission for emergency health care of the child must be obtained and signed by the parent, and include the names, addresses and telephone numbers of the child's physician, the hospital of choice to be called in case of an emergency and two (2) responsible adults the provider can contact in case the parent is not available.
2. Parents shall be notified immediately of any illness, accident, emergency or injury to the child in the home and their specific instructions regarding action to be taken shall be obtained. In cases of emergency, if the parents cannot be reached, the operator will contact those sources designated on the emergency form or implement the procedures authorized on the emergency form.
3. All accidents, incidents, and observed health related signs and symptoms which occur at a family day care home must be documented and shared with the parent on the day they occur. Documentation shall be written and shall include the name of the affected child, date and time of occurrence, description of occurrence, actions taken, and signature of the operator or substitute(s) and the parent. Records of accidents, incidents, and observed health related signs and symptoms must be maintained for one (1) year.

4. Any unusual incident involving the child which may be reasonably construed to constitute abuse shall be reported to the Abuse Hotline, as well as the Department within twenty-four (24) hours of occurring. In addition, child care personnel who know, or have reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare shall report such knowledge or suspicion to the Abuse Hotline, as well as the Department.

### **C. MEDICATION**

All medications shall be plainly labeled and in their original packaging. Family day care homes are not required to give medication. However, if they do so, the following shall apply:

1. A written authorization signed by a parent shall accompany any type of medication stating the time and amount of dosage and the name of the medication to be given to the child. The family day care home operator shall record the name of the child, medication date, time, method and amount of dosage given. The record shall be signed by the parent of the child, and initialed by the adult who gave the medication. Both the medical authorizations and the records of dispensing medication shall be maintained for one (1) year.
2. Prescription medication brought to the family day care home by the parent must be in the original container with the name of the physician, child, and shall be dispensed according to written directions on the prescription label.
3. Non-prescription medication brought to the family day care home by the parent must be in the original container with the name of the child and medication directions on the label and shall be dispensed according to the printed manufacturer's label. For the purposes of dispensing non-prescription medication that is not brought in by the parent, in the event of an emergency, non-prescription medication can only be dispensed if the home has written authorization from the parent to do so. Any medication dispensed under these conditions must be documented in the child's file and the parent must be notified on the day of occurrence. If the parent notifies the family day care home of any known allergies to medication, written documentation must be maintained in the child's file.

4. Topical non-medicated physical barriers - Physical barrier lotions, ointments and creams including but not limited to sunscreen, insect repellent, and diaper ointments are generally not medications. If the facility elects to allow use of these items, the facility must have a written policy governing their use. Parents must be made aware of such policy and have knowledge of its content. Such policy must include a requirement for written parental consent for application of non-medicated physical barriers. The policies, at a minimum, must ensure compliance with the provisions of these Rules and the standards contained herein.
  
5. Children's medications which have expired, or no longer being administered, shall be returned to the parent.

## ARTICLE X - COMMUNICABLE DISEASE CONTROL

- A. When used in isolation areas, linens must be changed and washed, and disposable items shall be changed and discarded after each use. Until cleaned or disposed, used linens and disposables shall be kept in a closed container out of the reach of children.
- B. Children in care shall be observed on a daily basis for signs of communicable disease. Any child who is suspected of having a communicable disease or exhibits other signs and symptoms which include any of the following, shall be placed in the isolation area. The condition shall be reported to the parent or other person authorized by the parent, and the child shall be removed from the facility as soon as possible. Such children shall not return to the family day care home without medical authorization, or until all signs and symptoms are no longer present:
1. severe coughing, causing the child to become red or blue in the face or to make a whooping sound,
  2. difficult or rapid breathing,
  3. stiff neck,
  4. diarrhea (more than one abnormally loose stool within a twenty-four {24} -hour period),
  5. temperature of one hundred degrees Fahrenheit (100°F) or higher taken by the axillary method when in combination with any other sign of illness,
  6. conjunctivitis (Pink Eye),
  7. untreated infectious skin patch(es),
  8. unusually dark urine and/or gray or white stool and yellowish skin or eyes,
  9. vomiting,
  10. pediculosis (head lice, nits),
  11. and any other unusual sign or symptom of illness.
- C. A child who has headlice shall not be permitted to return until treatment has been accomplished. The treatment shall include the removal of all lice, lice eggs and egg cases.

- D. An operator or household member who develops signs and symptoms of a communicable disease which include, but are not limited to, any of the following: fever (of one hundred and one degrees Fahrenheit {101° F} or higher), diarrhea, rash, pink eye or skin infection, or who is a carrier of or who develops signs and symptoms of a communicable disease which include, but are not limited to, any of the signs and symptoms described in Section B above, shall leave the areas of the home occupied by the children and shall not return without medical authorization, or until the signs and symptoms are no longer present. If it is the operator who is ill, the authorized substitute(s) must assume the operator's responsibilities, while children are in care.
- E. All family day care home operators, household members over the age of twelve (12) years, and substitutes shall have on file a statement that he/she is free of Tuberculosis in a communicable stage as indicated by an approved TB risk assessment, skin test or chest X-ray. Such a risk assessment, skin test, or chest X-ray must have been administered within the six (6) months prior to initial licensure. In the event that the family day care facility recruits new substitutes, the TB risk assessment, skin test or chest X-ray shall be completed prior to caring for children. Evidence of freedom from tuberculosis shall be provided every two (2) years. If found positive and/or receiving treatment, family day care personnel shall not be able to work with children without written medical authorization to work around children. These health examinations shall be documented on forms prescribed for this purpose by the Department.
- F. Communicable Disease Outbreaks.
1. Notification: Operators shall immediately notify the Department of any suspected outbreak of notifiable disease or other disease condition as per Chapter 64D-3, Florida Administrative Code, as amended or replaced. A suspected outbreak occurs when two (2) or more children or employees have the onset of a similar sign or symptoms (such as diarrhea, rash, etc.) within a seventy-two (72) hour period or when one (1) or more cases of a serious communicable disease, which includes, but is not limited to, hepatitis, measles, meningitis, diphtheria, German measles (rubella), whooping cough, tuberculosis, chicken pox, mumps, Salmonella, Shigella, Campylobacter, or Giardia intestinal infection is diagnosed or suspected in a child or employee.
  2. Communicable disease emergency: The presence of any notifiable communicable disease shall permit the Department Director to declare a communicable disease emergency. The declaration of said emergency shall mandate that health and immunization records of all children in attendance and all employees be made available for inspection. The Department Director shall have the authority under Florida Statutes §381.031, as amended or replaced, to require appropriate action to prevent the spread of such disease. This authority includes, but is not limited to, prohibiting attendance by a child or employee, restricting new admissions, or requiring immunization and is in

keeping with recognized standards of medical and public health practice. In the event of non-compliance with the actions requested, the Department Director shall have the authority to quarantine the affected facility.

#### G. Appropriate Sanitizers

The Department recommends the use of chlorine bleach, appropriately diluted as an effective sanitizing agent. This solution shall be made by adding one tablespoon of bleach to a quart of water, or one quarter cup of bleach to a gallon of water. This solution shall be made fresh daily, with unused portions disposed of at the end of each day.

Alternate disinfecting agents may be used in accordance with the manufacturer's specifications, provided that such use renders the items 99.9% germ free, and leaves no toxic residue. Where such alternative sanitizing agents are used, the facility shall obtain and keep on hand at the facility appropriate Material Safety Data Sheets (MSDS) for those products.

## ARTICLE XI - NUTRITION

- A. The operator shall offer meals and snacks of a quantity and quality to supplement food served by the parents so that the daily nutritional needs of the children are met according to recognized nutritional standards. The USDA My Pyramid, April 2005 as may be amended or replaced, incorporated by reference, shall be used to determine what food groups to serve at each meal or snack and the serving size of the selected foods for children two (2) years of age and older. The food group "oils" and the discretionary calories" must be disallowed from the food groups that may be used. Copies of the My Pyramid may be obtained from the Department, or by going to the USDA website at:

[www.mypyramid.gov](http://www.mypyramid.gov).

Using the USDA My Pyramid, breakfast shall consist of at least three (3) different food groups, lunch and dinner shall consist of at least four (4) different food groups, and snacks shall consist of at least two (2) different food groups. Meal patterns to meet these standards are to be provided by the Department as a guide. Menus shall be dated and posted conspicuously weekly.

- B. Nutrition Plan. There shall be a written agreement signed by the parent and operator and kept on file at the facility with a copy given to the parent. This agreement shall define the responsibilities of the parent and the operator for meeting the child's nutritional needs. If meals and/or snacks are furnished by the child's parents, this Alternate Nutrition Plan shall be indicated in the written agreement.
- C. Drinking water shall be freely available to children of all ages, and dispensed in a sanitary manner. If disposable cups are used, they shall be discarded after each use.
- D. Meal schedules may vary based on the duration of time the child is in care, but shall be at a minimum as follows:
- i. Children in care for eight (8) and fewer hours shall be offered at least one (1) meal and two (2) snacks, or two (2) meals and one (1) snack;
  - ii. Children in care for more than eight (8) hours shall be offered at least two (2) meals and two (2) snacks, or three (3) snacks and one (1) meal;
  - iii. Children shall be offered food at intervals at least two (2) hours apart and not more than three (3) hours apart unless the child is asleep.

- iv. All facilities shall assure that each child is provided with a mid-morning and mid-afternoon snack in addition to the number of meals necessary to meet the child's nutritional needs as stated in Article XII (A) above. Such snacks shall be served regardless of whether they are eligible for reimbursement under the Federal Food Program.
  - v. Mid-morning snacks may be deleted if breakfast is served, provided that the routine mid-morning snack period is two (2) hours or less away from the time that breakfast is served. Young infants may require to be fed at shorter intervals than every two (2) hours to meet their nutritional needs, and shall be fed accordingly.
- E. Infants shall be individually fed or supervised at feeding and offered foods appropriate for their age. Formula and beverage shall be prepared, individually labeled, and capped by the parent. The family day care facility shall refrigerate and handle the formula and or beverage in a sanitary manner. There shall be no propped bottle for infants and no mechanical devices used for feeding.
- F. Microwave ovens shall not be used for directly warming bottles. Microwave ovens may be used to warm water in a separate container. The bottle may then be placed in the heated water to obtain a safe and desired temperature, provided the container of water is no more than one hundred and twenty degrees Fahrenheit (120° F). Alternatively, bottles and infant foods may be warmed under running warm tap water.

If a slow-cooking device, such as a crock pot is used for warming infant formula, human milk, or infant food, this slow cooking device shall not be accessible to children and shall contain water that does not exceed one hundred and twenty degrees Fahrenheit (120° F), and shall be emptied, sanitized, and refilled with fresh water at least daily. After warming, bottles and heated foods shall be mixed gently and the temperature of the contents tested before feeding to prevent injury to children. A caregiver shall not hold an infant while removing a bottle or infant food from the container of warm water or while preparing a bottle or stirring infant food that has been warmed. All cooking/warming devices shall be inaccessible to children.

- G. Special diets shall be provided when ordered by the physician. Arrangements shall be made between the operator and parent for a child's modified diet when prescribed by a physician. The physician's order and a copy of the diet and sample meal plan for the special diet shall be in the child's record. If the parent notifies the family day care home of any known food allergies, written documentation must be maintained in the child's file for as long as such child is in care.

- H. Cereal shall not be mixed with formula in infant bottles unless directed by a physician. The physician's order shall be kept in the child's file.

## ARTICLE XII – DAILY PROGRAM AND CHILD DISCIPLINE

- A. The specific types of discipline used for each age group must be included in the written materials provided to the custodial parent. Verification that the owner has provided in writing the disciplinary practice used shall be documented on the enrollment form, and acknowledged by the signature of the custodial parent.
- B. The children in a family day care home should be disciplined only in a constructive manner.
- C. Children shall not be subject to discipline which is severe, humiliating or frightening.
- D. Discipline shall not be associated with food, rest or toileting.
- E. Spanking or any other form of physical punishment is prohibited.
- F. Daily program.  
There must be a daily program to provide meaningful experiences geared to the age level of the children and to meet the social, emotional, physical, intellectual and developmental needs of each child as well as those of the total group and include a written program to be implemented periodically for children of an appropriate age, which will assist the children in preventing and avoiding physical and mental abuse. The activity program for both infants and children must be conspicuously displayed in the family day care facility and shall include a schedule for meals, snacks, naps, indoor and outdoor periods. Infants shall not be routinely left in playpens or cribs except for rest, nap or sleep. The program for infants must include adequate opportunity for activities for at least two (2) hours per day outside of the crib or playpen. An appropriate area must be provided for this activity.

In addition, infants in care shall be provided with opportunities for outdoor time each day that weather permits.

### **ARTICLE XIII - CARE FOR CHILDREN DURING NIGHTTIME HOURS**

The minimum standards for family day care facilities set forth herein shall continue to apply to child care facilities which offer care during night-time hours (6 P.M. to 7 A.M.) with the additional application of the following standards as set forth in this section.

- A. The operator shall notify the Department, in writing his/her plan of care, and shall have the written approval of the Child Care Advisory Council prior to instituting the provision of nighttime care on a regular basis.
- B. There shall be provided a suitable space for sleeping or napping, with one (1) child per bed or cot, with his or her own linens covering the bedding. Children two (2) years of age or older may sleep on beds used by the family provided individual linens are provided for each child, and provided that such beds are not in use by family members while children are in care. Children under two (2) years of age will be provided with a crib. There shall be not less than two (2) feet between beds or cots. In rooms used for the care of children remaining overnight, there shall be two hundred and fifty (250) cubic feet for each bed or crib, and at least five hundred (500) cubic feet of air space per child. Bed linen must be changed between each use. There shall be sanitary storage space for cots and equipment if a separate sleeping room is not provided.
- C. The operator or substitute(s) shall stay awake during operating hours while children are in care.
- D. Children who have not been served an evening meal before arrival, must be served an evening meal that is consistent with these Rules. Children who stay beyond 6 A.M. must be provided a morning meal consistent with these Rules.
- E. When children remain overnight, playpens, air mattresses, foam mattresses, and mats are not acceptable and the operator must prepare a written plan outlining the sleeping arrangements of the children in care to be provided to the Department upon request. If the children are sleeping overnight, the operator must ensure accepted bedtime routines, such as brushing teeth and face and hand washing. Toothbrushes, towels and wash-cloths may not be shared.
- F. It shall be an additional violation of these Rules if children of the opposite sex, any one of which is over the age of six (6) years, are quartered in the same room without constant adult supervision.
- G. Nighttime Care approval may be revoked or denied in accordance with the procedures set forth in Article V of these Rules.

## ARTICLE XIV - TRANSPORTATION

- A. When a family day care facility provides regular transportation for children, the Department must be advised in writing.
- B. The driver shall have a current valid Florida driver's license.
- C. When a family day care operator is transporting children, each child must be in an individual factory installed seat belt or Federally approved child safety restraint.
- D. The maximum seating capacity of the vehicle is based on the manufacturer's designated seating capacity specifications or the number of factory-installed seat belts. This seating capacity shall not be exceeded.
- E. Family day care operators must obtain ~~in~~ advance written parental authorization granting permission to transport children in care.
- F. Pursuant to Chapter 386, Florida Statutes, while children are in care, smoking is prohibited in vehicles when transporting children.
- G. A log shall be maintained for all children being transported in the vehicle. The log shall include each child's name, date, time of departure and time of arrival, signature of the driver and verification of the fact that all children have left the vehicle and are accounted for. This log shall be maintained for a minimum of twelve (12) months. Upon arrival at the destination and return to the family day care home, the driver of the vehicle shall:
  - (1) Mark each child off the log as the child departs the vehicle,
  - (2) Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle, and
  - (3) Sign and date the log immediately verifying that all children were all accounted for and that the visual sweep was conducted.
- H. Upon arrival at the destination and return to the family day care home, the driver of the vehicle shall:
  - (1) conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle, and
  - (2) sign and date the log immediately verifying that all children were accounted for and driver's log is complete.

## **ARTICLE XV ADMISSION AND RECORD KEEPING**

### **A. HEALTH EXAMINATION AND IMMUNIZATION**

#### 1. Health Examination Certificate:

- a) Upon admission, each child must have on file a written certificate of health examination, DH Form 3040, Student Health Examinations. The general health examination certificate shall be completed by a person given authority by Florida Statutes to perform health examinations. The examination shall have been performed within six (6) months prior to enrollment, (unless the child has transferred from another family day care or child care center) which would be current for two (2) years after the initial enrollment physical examination.
- b) The certificate shall attest that the child is in good health or that any known medical condition or health problem is under treatment.
- c) The certificate is valid for two (2) years from the date the physical examination was performed.
- d) The facility shall refuse admittance or temporarily exclude any child who is not in compliance with these provisions.

#### 2. Immunization Certificate:

- a) Upon admission, each child must have a file a Florida Certificate of Immunization, DH Form 680, for the prevention of diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, mumps, Haemophilus influenzae type B (HIB), Hepatitis B, and varicella.
- b) Immunizations appropriate to the child's age shall be up-to-date or in the process of being updated, as set forth in Article XV (A)(3)(b)(1) of these Rules. The facility shall refuse admittance or temporarily exclude any child who is not in compliance with these provisions.
- c) The manner and frequency of administration of the immunizations shall conform to recognized standards of medical practice of the State of Florida and are referenced on DH Form 680.
- d) Immunization records will be documented on forms approved and provided to physicians by the Department. Immunization certification or medical exemption shall be entered on DH Form 680 parts A or B and/or C, and religious exemption shall be entered on DH Form 681.

- e) Immunization records must be kept current. Family day care facility operators shall notify the child's parents approximately one (1) month prior to the expiration date of the Temporary Medical Exemption, DH Form 680 part B.
- f) A valid Certificate of Immunization, DH Form 680 part A, shall be properly dated and signed by a physician or their authorized agent. A child in attendance with a medical exemption must present or have on file the Medical Exemption, DH Form 680, part B or DH Form 680, part C. DH Form 680, part B may be signed by a physician or their designee. DH Form 680, part C, must be properly dated and signed by a physician licensed under provisions of Chapters 458, 459, or 460, F.S., as amended or replaced.
- g) Notification to the affected parties of any changes to the DH Form 680 as a result of changes to the recognized standards of medical practice will be provided by the Department's Immunization Program and will become effective six (6) months following the notification to all child care facilities.

### 3. Exemptions:

- a) Health Examination: For religious purposes only, any child shall be exempt from medical or physical examination upon written and signed request of the parent of such child; however, the laws, Rules and Regulations relating to contagious or communicable diseases and sanitary matters shall not be violated.
- b) Immunization: A child's application for admittance to the family day care facility shall include immunization(s) according to recognized medical standards or include documentation of temporary medical, permanent medical, or religious exemption.
  - (1) Temporary Medical Exemption, DH Form 680 part B, is used for a child who is not fully immunized but is in the process of completing the required immunizations and cannot receive any additional vaccine at that time.
  - (2) Permanent Medical Exemption, DH Form 680 part C, is used for a child who is not fully immunized but for medical reasons cannot receive one (1) or more of the required vaccines.
  - (3) Religious Exemption, DH Form 681, is issued by the Department when the parent of the child objects in writing that the administration of immunization agents conflicts with his religious tenets or practices.
- c) When a family day care facility serves school-aged children, the school requirements for health examination and immunization shall apply and records

of such need not be on file at the child care facility.

- d) Medical records, i.e., Student Health Examinations, DH Form 3040; Certificate of Immunization, DH Form 680, become the property of the parents when the child withdraws from the facility and are transferable if the child attends another facility.

## **B. ENROLLMENT INFORMATION**

The operator shall obtain from the parent and keep current, the following enrollment information:

1. The child's full legal name, birth date, current address, and preferred name(s).
2. The name and address of the parent(s).
3. Telephone numbers and instructions as to how the parent may be reached during the hours the child is in the home.
4. Names, addresses, and telephone numbers of person(s) who can assume responsibility for the child if for some reason the parent(s) cannot be reached immediately in an emergency. Names and addresses of persons authorized to take the child from the home. The child must not be released to any person other than the persons authorized by the parents, or listed on the enrollment form.
5. The name, address, and telephone number of a physician or health resource professional that can be called in case of emergency and the parent's written permission to consult the physician or health resource professional if the parent cannot be reached.
6. The emergency form specified in Article XV above.
7. Parents must be informed in writing of all animals on the premises of the home. Such information may be provided by way of a parent flier, a notification statement, or a statement included in the child's enrollment form. The facility shall maintain a copy of the notification, dated and signed by the parent, verifying that the parent received this information.
8. Summary of information that must be contained in each child care health folder:
  - (a) Enrollment information.
  - (b) Emergency medical authorization.
  - (c) Alternate nutrition contract, if applicable.

- (d) Specialized diet information, if applicable
- (e) Allergy information, if applicable
- (f) Health Examination (DH Form 3040).
- (g) Immunization status (DH Form 680).

## **ARTICLE XVI FIELD TRIPS**

1. Parents must be advised of field trip activities. Parental permission must be obtained either in the form of a general permission slip or prior to each field trip activity and documentation included in the child's record. The date, time and location of the field trip must be posted in a conspicuous location at least one (1) day prior to the field trip.
2. For all field trips, a manifest shall be kept at the family day care home with a copy brought to the field trip. Such manifest shall include the names of the children, attending the field trip; current telephone numbers where parent(s) may be reached in the event of an emergency. The manifest and any field trip permission slips must be maintained by the facility and kept on file at the facility for no less than one (1) year from the date of the field trip.
3. Each facility shall take along with it on any field trip and keep close at hand a first aid kit and a cellular phone or similar two-way communication device that will allow the operator or authorized substitute to independently summon emergency assistance.
4. Swimming activities and water play are prohibited at all fresh water bodies not permitted by the Department for such purposes. Water play, on land, is prohibited unless the water used is in facilities and from a source approved by the Department. During swimming activities, each child shall be directly supervised with physical or visual contact maintained at all times by the operator or authorized substitute.
5. For field trips involving swimming activities, two (2) adults must be present when the children are in the swimming area, one (1) of whom must hold a current Certified Lifeguard Certificate or its equivalent. The family day care facility must provide a person with a current Certified Lifeguard Certificate or its equivalent, unless there is a Certified Lifeguard on duty. Family day care operators must obtain written permission in advance from a parent granting permission for their child to participate in swimming activities at specified locations.
6. Notwithstanding parental consent or written acknowledgment, nothing herein shall be construed to require a facility to allow a child to participate in swimming activities when the facility does not consider the child sufficiently able to swim.
7. All written acknowledgments, permission slips, and consent forms required herein must be kept at the facility for at least one (1) year after such forms have been relied upon to meet these requirements. If the Department deems it prudent to do so, it may issue and prescribe the use of forms pertaining to the requirements of this section.

## **ARTICLE XVII CLASSIFICATION OF VIOLATIONS**

A violation is noncompliance with any provision of §§. 402.301 - 402.319, Florida Statutes, or these applicable Rules. The Department will use the following classifications as a guideline for determining the severity of violations of these Rules:

- A. Class I Violations: Are the most serious in nature and could result or do result in death or serious harm to the health, safety and well-being of a child and include overt abuse and negligence related to the operation and maintenance of a facility.
- B. Class II Violations: Are serious in nature but do not pose an immediate threat to the health, safety and well-being of a child but could reasonably be expected to cause harm within ninety (90) days (for example, a leaking roof that could collapse) and include those conditions or occurrences related to the operation and maintenance of a facility, other than Class I violations.
- C. Class III Violations: Are the least serious in nature and pose no threat to the health, safety and well-being of a child and include those conditions or occurrences related to the operation and maintenance of the facility other than Class I or Class II violations.
- D. Other: Violations not included above or classified as a Class I, II, or III violation but for which fines may be issued depending on severity or recurrence.
- E. In addition to the provisions previously set forth herein, it is a violation of these Rules to:
  - (1) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment, licensure or certification regulated herein, all information required or a material fact used in making a determination as to such person's qualifications to be family day care personnel, in a child care facility, or other child care program.
  - (2) Operate or attempt to operate a family day care facility under a license or certificate that is revoked, or terminated.
  - (3) Misrepresent, by act or omission, a family day care facility to be duly licensed pursuant to this rule without being so licensed.
  - (4) Make any other misrepresentation, by act or omission, regarding the licensure or operation of a family day care facility to a parent who has a child placed in the facility or is inquiring as to placing a child in the facility, or to a representative of the licensing authority, or to a representative of a

law enforcement agency, including, but not limited to, any misrepresentation as to:

- (a) The number of children at the family day care facility;
- (b) The part of the family day care facility designated for family day care;
- (c) The qualifications or credentials of family day care personnel;
- (d) Whether a family day care facility complies with the screening requirements of 402.305, Florida Statutes, as amended or replaced, and these Rules herein; or
- (e) Whether family day care personnel have the training as required by 402.305, Florida Statutes, as amended or replaced, and these Rules herein.

## ARTICLE XVIII- ENFORCEMENT

- A. In addition to the revocation procedures set forth above, any violation of Chapter 59-1698 Laws of Florida, as amended, these Rules and Regulations, or Florida Statutes, §§ 402.301--402.319, as amended or replaced, or the Rules and Regulations promulgated thereunder, is subject to enforcement by the Department through the Palm Beach County Environmental Control Officer pursuant to Chapter 77-616, Laws of Florida, as amended. Pursuant to Chapter 77-616, Laws of Florida, the Environmental Control Hearing Board is authorized to issue fines of up to \$500 per violation per day of violation. Violations of these Rules may result in the issuance of an order requiring the owner/operator of the facility to appear before the Environmental Control Hearing Board and show cause why a civil penalty should not be imposed or corrective action ordered. Thereafter, the Environmental Control Hearing Board will convene, hear the matter, and, if a violation is found to have occurred, issue an order that may require corrective action and payment of a fine. Failure to pay any such fine may result in the filing of a lien against any and all property of the facility owner. The provisions of this paragraph describe an additional and supplemental means of enforcement. Nothing contained in this paragraph shall prohibit the County from enforcing these Rules and Regulations by any other means, including, but not limited to the institution of time-limited corrective action plans for the family day care facility and/or referral to the State Attorney's Office for criminal prosecution, pursuant to Chapter 77-616, Laws of Florida, as amended or replaced.
- B. Each day of violation shall be considered a separate and distinct violation.
- C. Members of the Child Care Facilities Board and its representatives may enter and inspect family day care facilities at reasonable hours, and may question such persons and investigate such facts, conditions, and practices or matters as may be necessary or appropriate to determine whether any person has violated any provision of Chapter 59-1698, Special Acts, Laws of Florida, as amended, or of any rule and regulation issued hereunder. The right of entry and inspection shall also extend to any premises which the Department has reason to believe are being operated or maintained as a family day care facility without a license, but no such entry or inspection of any premises shall be made without the permission of the person in charge thereof unless a warrant is first obtained from the circuit court authorizing same. Any application for a license or renewal made pursuant to these Rules, or any advertisement to the public of family day care as defined herein shall constitute permission for entry or inspection of any premises for which such license is sought in order to facilitate verification of the information submitted on or in connection with the application. In the event that a licensed facility refuses permission for entry or inspection to the Department, a warrant shall be obtained from the circuit court authorizing same prior to such entry or inspection. Disciplinary action may also be instituted pursuant to Article XVIII (A) herein.

- D. In addition to conspicuously posting the license, the family day care facility shall post with the license:
- 1) Each citation for a violation of any standard or requirement of these Rules and Regulations that has resulted in disciplinary action mandated by the Environmental Control Hearing Board.
  - 2) An explanation, written in simple language, of the corrective action, if any, taken by the facility for each citation. Included in the description shall be the dates on which the corrective action was taken.
  - 3) Each citation, explanation, and description of corrective action shall remain posted for one (1) year after the Environmental Control Hearing Board's effective date.
- E. Should the Department determine that any family day care personnel makes any misrepresentation in violation of Article XVII (E) above to a parent who has placed a child in the family day care facility, and the parent relied upon the misrepresentation, and the child suffers great bodily harm, permanent disfigurement, permanent disability, or death as a result of an intentional act or negligence by the family day care personnel, then such matter may be referred to the State Attorney's Office for criminal prosecution, pursuant to Chapter 77-616, Laws of Florida, as amended or replaced.



