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Template for Commenting on the Child Care Certification Regulations

Thank you for your interest in making comments on the Pennsylvania Child Care Regulations. If you have questions about the proposed changes or would like assistance in drafting comments, please contact Diane Barber at diane.barber@pacca.org or call 717-657-9000 x 150. **Comments must be submitted by November 13, 2018.**

- All comments, suggestions or objections must reference the Regulation Chapter, Number, and Section and Subsection.
- They may be directly submitted to the Independent Regulatory Review Commission via email to irrc@irrc.state.pa.us

Or to the Department of Human Services ...

- via email to: RA-PWCCRegChanges@pa.gov
- via fax: 717-787-1529
- via US mail: Tamula Ferguson Bureau of Certification Services Office of Child Development and Early Learning Department of Human Services 333 Market Street, 6th Floor Harrisburg, PA 17105

Directions

- Attached are PACCA's comments to the proposed changes to the regulations.
- The Independent Regulatory Review Commission needs to hear about those regulatory changes with which you agree and those with which you disagree.
- You can use PACCA's comments to draft your own unique comments to the proposed changes. We encourage you to modify this template to reflect your own thoughts, expertise, and experience. Please personalize your comments.
- You may or may not agree with PACCA's comments, but we hope we have justified our positions.

November 6, 2018

Submitted via irrc@irrc.state.pa.us

Tamula Ferguson
Bureau of Certification Services
Office of Child Development and Early Learning Department of Human Services
333 Market Street, 6th Floor
Harrisburg, PA 17105

Re: IRRIC Number 3216; Department of Human Services changes to 55 Pa. Code Chapter 20; 55 Pa. Code Chapter 3041; 55 Pa. Code Chapter 3270; 55 Pa. Code Chapter 3280; 55 Pa. Code Chapter 3290

Dear Ms. Ferguson:

On behalf of the Name of your Organization, please accept our comments on the proposed changes to the child care facility regulations referenced above. We welcome the opportunity to provide input and comment.

Provide a little background on your organization, location and number of children and families served.

We understand that many of the proposed changes are the result of the Reauthorization of the Child Care and Development Block Grant (CCDBG). These are mandatory changes that Pennsylvania must make in order to come into compliance with the CCDBG.

CCDBG Related Changes

- **Chapters 3270.11 (g); 3280.11 (h); 3290.11 (k). Annual Unannounced Inspections:** All annual inspections will be unannounced for certified child care providers
- **Chapter 3290.11. Certification of Family Child Care Homes (FCCH):** Prior to this proposed changes, PA's family child care homes were registered, not certified and could operate for years, without a visit from certification staff.
- **Chapters 3270.11 (c); 3280.11(c); 3290.11 (i). Announced Pre-Certification Inspection:** An announced on-site inspection will be conducted at all locations seeking to operate a child care program before the issuance of an initial certificate of compliance.
- **Chapters 3270.31 (f); 3280.31 (f); 3290.11 (b); 3290.31 (g). Pre-Certification in Ten Health & Safety Areas:** Training is required only once and must be completed within 90 days after their date of hire.
- **Chapters 3270.27; 3280.26 (a) (b); 3290.24 (a) – (g). Emergency Plan:** Providers must conduct an annual practice drill of the emergency plan. The plan must include specific provisions for the evacuation of infants, toddlers and children who have disabilities or chronic medical needs. Plans must be filed with the municipality and the county. In addition it is our understanding the

CCDBG regulations require procedures for a lockdown although this is not noted in the changes proposed by the Department of Human Services.

Organization's Comment: We support changes made to the regulations reflecting mandatory requirements of CCDBG and recommends the Department add the additional CCDBG requirement that all emergency plans provide procedures for a lockdown. Without CCDBG funding, Pennsylvania efforts to assist low-income working families and build the quality of its child care programs would be significantly curtailed.

Department of Human Services proposed changes

Chapters 3270; 3280; 3290. Replacement of the words "day care" with "child care" throughout the body of the regulations.

Organization's comment: We support removing the term "day" and replacing it with the word "child" when referring the setting in which the care for children occurs as per Act 2015-92.

Chapters 3270.31 (e); 3280.31 (e); 3290.31 (f). Increased Annual Professional Development: Annual professional development requirements would increase from 6 hours per year to 12 hours per year.

Organization's comment: While we do not oppose the increase in professional development hours, we do note that DHS has underestimated the cost to providers to comply with the increase in training hours. We appreciate DHS's attempt to provide a fiscal note, however the fiscal note calculates the cost for training at a flat hourly rate. As required by Federal Labor and Industry rule, legal entities must pay employees for time attending training. If the time worked and the time in training exceeds 40 hours, employees must be paid one and one-half time. If the employer, allows the employee to attend training during work hours, no additional cost for that employee is incurred. However, this may require an employer to engage a substitute which would in effect have the employer paying double-time for the coverage – straight time for the employee in training and straight time for the substitute.

Chapters 3270.11; 3280.11; 3290.11. Certification Process: DHS outlines the certification process resulting from changes required by CCDBG.

Organization's comment: We support the clarification and outline of the process.

Chapter 3270.4; 3280.4; 3290.4. Definition of the Volunteer: DHS proposes amending the definition of volunteer to include children 14 years of age or older, but under 16 years of age, enrolled in a Child Care and Support Services Management Program.

Organization's Comment: We oppose this proposed change in the regulations. Current child care certification regulations define children as those birth to age 16 year of age. We believe that supervising children not enrolled in the program, but acting as volunteers are a burden to educators who already have a responsibility to maintain the supervision of children in their care. Given that child care regulations require children aged 14 & 15 to be counted in the staff:child ratios we believe this is a confusing change for programs, staff, families, and children. We also question the additional liability issues that may arise and potential costs to programs with this dual definition and potential conflict in the regulations.

Chapter 3290. 4. Definition of Relative. DHS proposes to expand the definition of family members to include a parent, child, step parent, stepchild, grandparent, grandchild, brother sister, half-brother, half-sister, aunt, uncle, niece or nephew.

Organization's comment: At first glance this change in the definition of "Relative" appears to provide consistency between Chapter 3270, 3280 and 3290 of the regulations. However, there are subsequent sections of Chapter 3290 to which this definition applies that could impact the health and safety of children in care. Chapter 3290 provides standards for family child care homes – "A home other than the child's own home, operated for profit or not-for-profit, in which child [day] care is provided at any one time to four, five or six children unrelated to the operator." There is no regulation limiting the maximum number of "related" children that can be cared for by the family child care home operator and no requirement that standard staff:child ratios are applied. In Chapter 3280 Group Child Care Homes "A facility located in a residence or another premise", operators must conform to staff:child ratios and minimum space requirements for both related and non-related children (Chapter 3280.53 Children of an operator or a facility person). While addressing consistency between regulations around definitions, DHS leaves opens a potentially dangerous policy that jeopardizes the health and safety of ALL children in the family child care home. *We recommend, that DHS additionally adopt staff:child ratios for family child care homes and space requirements for both unrelated and related children as per Chapter 3280.53 for Group Child Care Homes.*

Chapters 3270.131 (a); 3280.131 (a); 3290.131 (a) Health Information: DHS is proposing to shorten the timeframe to submit an initial health report for a children from 60 to 30 days.

Organization's comment: We believe that while good intentioned, this requirement may be unreasonable when the availability of health services are inconsistent across the commonwealth. A 2017 survey of *Physician Appointment Wait Times & Medicaid and Medicare Acceptance Rates* conducted by Merritt Hawkins, a national physician search firm and a company of AMN Healthcare found the time it takes to schedule a new patient physician appointment in 15 major metropolitan areas has increased by 30 percent since 2014. The survey indicates that it now takes an average of 24 days to schedule a new patient physician

appointment in 15 of the largest cities in the U.S., up from 18.5 days in 2014.¹ The onus to comply inevitably falls to the child care provider who would be cited by certification when a family is unable or does not comply with the regulation, but requires child care due to job search and attainment. PACCA urges DHS to withdraw this change and revert to the 60 day provision.

Chapter 3290.113 (f). Supervision of Children: DHS proposes that family child care home operators employ a monitoring device with a video camera or sight technical device to supervise children when the operator is not able to directly see, hear, direct and assess activity of the child such as the need to be in the restroom or for the preparation of a meal or snack.

Organization's comment: We acknowledge this change in regulation comes at a cost to family child care home operators and that provider rates have not seen any significant increase in nearly eleven years. However, we believe that this provision provides a technological solution to insure a family child care home provider can take care of their needs and the need that children to be supervised at all times. We support DHS in this change.

Chapter 3290.113 (g). Supervision of Children: DHS proposes that family child care home operators that provide services for 24 hours per day, may not work for a period of more than 16 hours in the 24-hour time period.

Organization's comment: We support this provision.

Again, we appreciate the opportunity to comment on the regulations. We understand that there are other items regarding child abuse clearances that are required by CCDBG, but not included in this revision to the regulations. We support DHS's actions to come into compliance with federal regulations as not to jeopardize Pennsylvania's access to federal CCDBG funding.

Regards,

¹ <https://www.merritthawkins.com/news-and-insights/thought-leadership/survey/survey-of-physician-appointment-wait-times/>