

REGULATORY ANALYSIS FORM – PROPOSED RULEMAKING

Regulatory Analysis Form	
(1) Agency Department of Public Welfare	This space for use by IRRC <div style="text-align: right;"> 2006 MAY 23 PM 1:56 INDEPENDENT REGULATORY REVIEW COMMISSION </div>
(2) I.D. Number (Governor's Office Use) # 14-506	IRRC Number: 2539
(3) Short Title Child Care Facilities	
(4) PA Code Cite 55 Pa. Code Chapters 3270, 3280, 3290 and 3300	(5) Agency Contacts & Telephone Numbers Primary Contact: Wendy Etheridge-Smith, 346-1116 Secondary Contact: Jennifer Lau, 772-4850
(6) Type of Rule Making (Check One) <input checked="" type="checkbox"/> Proposed Rule Making <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rule Making Omitted	(7) Is a 120-Day Emergency Certification Attached? (To be used only for emergency-certified regulations.) <input type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor
(8) Briefly explain the regulation in clear and nontechnical language. The child care facility regulations at 55 Pa. Code Chapters 3270, 3280, 3290 and 3300 provide standards to aid in protecting the health, safety and rights of children and to reduce risks to children in child day care centers, group child day care homes and family child day care homes. The regulations identify the minimum level of compliance necessary to obtain the Department's certificate of compliance to operate a child care center or group child day care home or certificate of registration to operate a family child day care home.	
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The Department proposes to amend the regulations under the authority of Articles IX and X of the Public Welfare Code (62 P. S. §§ 901-922 and 1001-1087).	

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The proposed rulemaking is not mandated by a Federal or state law, court order or regulation.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The proposed rulemaking is needed to update the minimum standards for child care facilities. The current regulations were published in April 1992 and have not been amended since. The regulations need to be updated to reference the current laws that directly impact on the operation of child care facilities, to incorporate the Department's statements of policy issued since 1992, to implement changes in recommended health and safety practices, to clarify minimum standards and to reflect best practice in the field of child care.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

The Department cannot require that an individual who wants to operate a child care facility must attend the Department's orientation training without amending the regulation. Attendance at orientation increases the facility's level of compliance with regulations and improves health and safety for children in care.

The Department cannot address inclusion of children with special needs in all child care facilities if Chapter 3300 is not deleted and the requirements relating to care for children with special needs are addressed within Chapters 3270, 3280 and 3290.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Children, parents and providers will benefit from the regulation.

The regulation will improve health and safety standards for all children in care and, as a result, will benefit approximately 340,000 children statewide.

The regulation will facilitate inclusion of children with special needs in child care facilities.

The regulation will incorporate current statements of policy and correct regulatory language to accurately reflect other laws that impact facility operation. This will benefit the 9,000 current providers and prospective providers who must comply with the regulation and need accurate information to operate child care facilities.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Facilities may be adversely affected by the costs associated with the proposed amendments relating to mandatory orientation training, program plans and protective surface coverings under outdoor play equipment. The costs of compliance may be offset by other cost savings resulting from amendments related to kindergarten children, child health reports and staff health.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Child day care centers, group child day care homes and family child day care homes are required to comply with the regulation. As of November 30, 2005, 3897 child care centers, 793 group day care homes and 4219 family day care homes were certified or registered by the Department.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Office of Child Development (OCD) held a stakeholders meeting to discuss proposed regulations on September 27, 2005. Attendees included individuals who operate profit and nonprofit child care centers, group day care homes and family day care homes; representatives of provider organizations and child advocacy groups; representatives from the Departments of Health and Education and OCD staff.

As a result of the stakeholders meeting, OCD convened a subgroup of stakeholders on November 8, 2005, to discuss amendments related to serving children with special needs. Attendees included individuals who operate profit and nonprofit child care centers, group child day care homes and family child day care homes; representatives of provider organizations, the Department of Education, the Department's Office of Legislative Affairs, Early Intervention specialists and OCD staff.

Draft regulatory amendments were shared with all stakeholders who were invited to attend the meetings. All groups were invited to submit written comments regarding the draft regulation. The comments received were reviewed and considered in developing the regulation proposed for publication.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures that may be required.

Regulatory Analysis Form

Kindergarten child is young school-age:

Changing the definition of young school-age to include kindergarten children may result in lower reimbursement rates for facilities in 45 counties that participate in the child care subsidy program. Currently, kindergarten children are preschool children. The reimbursement rate for a preschool child may be from \$.10 cents to \$12.40 less than the reimbursement rate for a young school-age child. Below is a chart illustrating the cost differences and number of counties impacted.

Number of Counties	Difference in Reimbursement Rate Preschool to Young School-Age
21	- \$.10 to \$2.00
17	- \$2.10 to \$4.00
10	- \$4.10 to 6.00
7	- \$6.00 to \$12.40

The decrease in reimbursement will be offset by lowered operating costs. The staff:child ratio for preschool children is 1:10 and for young school-age children is 1:12; the facility will save costs related to staffing due to the lessened ratio. In addition, a school-age facility that enrolls a kindergarten child will be able to maintain its status as a school-age facility and will not have to incur the added costs of complying with all requirements in Chapter 3270 or 3280. A facility that transports kindergarten and school-age children will be able to count the driver in the staff:child ratio and will no longer have to supply an additional staff person on the vehicle to comply with ratio requirements related to transporting preschool children.

Pre-certification orientation:

Pre-certification orientation may create costs to an individual who wants to apply for a certificate of compliance or registration. The training will require a full day including travel and training time. The individual's costs will vary depending on the distance the individual must travel to participate in training. Using the Commonwealth mileage rate, an individual who travels 200 miles round trip would incur a travel cost of \$97.00.

For individuals currently operating or working in child care facilities, attendance at orientation training would be part of their job and they would be paid for the time to attend the training.

An individual who operates a family child day care home or group child day care home and who wants to open a new facility may have to arrange for staff to work at the facility while the individual attends orientation training. According to the Pennsylvania Department of Labor and Industry (L&I), the average wage for a child care worker is \$8.50 per hour. If substitute staff must be hired to cover an eight hour shift, the estimated cost is \$68.00.

Regulatory Analysis Form

An individual who is employed outside the child care field and who wants to open a facility may miss a day of work to attend orientation training and may lose wages for that day. Based on L&I's statistics regarding the average state wage, the individual may lose \$147 in wages to attend orientation training.

Ventilation:

The current regulation requires that when the indoor temperature exceeds 85° F in a child care space, a means of mechanical air circulation shall be operating. Many facilities already have a means of ventilation in place at the facility. Ventilation may be provided through using a fan. If a facility has to purchase a fan, the cost of a fan will vary depending on the type of fan i.e., standing fan, window fan, wall fan or ceiling fan. The estimated costs would be anywhere from \$15.00 to \$100.00 depending upon the type of fan purchased.

Disposable, nonporous gloves in first aid kit:

The addition of disposable, nonporous gloves to the first aid kit represents increased cost to a facility. The use of gloves is a universal precaution to prevent the spread of disease transmitted via body fluids. The cost of a box of 100 gloves ranges from \$2.99 to \$8.99. The rate at which the gloves are used to administer first aid is unknown. The health and safety protection afforded to children and staff by using gloves outweighs the cost.

Protective surfacing under outdoor play equipment:

The amendment relating to surface covering under outdoor embedded play equipment will result in increased costs for facilities where the surface covering does not meet the CPSC guidelines. The current regulation requires at least six inches of loose-fill material under the equipment. If the facility must modify the protective surface to comply with the regulation, the cost will depend upon the fall height from the equipment, the type of surface covering used and the size of the area that must be covered. Below is a chart showing the average cost of different surface coverings that may be used to meet the regulation.

Surfacing	Cost
Gravel	\$13.00 per square foot
Wood mulch	\$15.00 per cubic yard
Sand	\$17.00 per ton
Rubber mulch	\$25.00 per cubic yard
Safety tiles (unitary surface)	\$50.00 per square yard

A facility that has a unitary surface covering that currently meets the requirements in the Department's statement of policy will be in compliance with the amended regulation.

Regulatory Analysis Form

Program plan:

Facilities will incur added costs in preparing a program plan for each child twice a year. The current regulation at Chapter 3300 requires that each child with special needs must have a program plan that is reviewed every three months and rewritten annually. The proposed amendment relating to program plan requires that each child must have a program plan developed at initial attendance and the plan must be reviewed every six months. The Department estimates that on average, an initial program plan may take one hour to develop and that each review may take one-half hour. The Department does not have data on the average annual number of new enrollments at a facility. The estimated cost for a facility to update program plans twice a year is illustrated in the table below. The average wage is determined based on the fact that the child care center director, group day care home primary staff person or family day care home operator is responsible for the program plan review.

Facility	Average enrollment	Six month reviews per year	Total hours of review	Average hourly wage	Cost
Center	50	100	50	\$16.64	\$832.00
GDCH	12	24	12		\$199.68
FDCH	6	12	6		\$99.84

Staff health:

Staff persons will save money from the decreased requirements for staff health appraisals. By changing the requirement for annual health appraisals to bi-annual health appraisals, each staff person will save \$75.00 to \$150.00 per year. In addition, eliminating the requirement for bi-annual tuberculosis testing will save each staff person an additional \$25.00 to \$75.00 every two years.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures that may be required.

There are no new costs or savings to local governments associated with compliance with this proposed regulation. No new legal, accounting or consultant procedures are required.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting,

Regulatory Analysis Form

or consulting procedures that may be required.

Changing the definition of young school-age to include kindergarten children may result in lower reimbursement rates for providers in 45 counties who participate in the child care subsidy program. This will result in cost savings for state government. Currently kindergarten children are preschool children. The reimbursement rate for a young school-age child may be from \$.10 cents to \$12.40 less than the reimbursement rate for a preschool child.

The Department currently provides pre-certification orientation training for individuals who want to operate child care facilities. The Department will not incur additional costs related to the proposed amendment requiring attendance at orientation training.

Linda D. Seibert 1-27-06

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

This response is completed by the Department's Office of Budget with consultation and supportive information provided by the Program Office. The Program Office provides support to the Office of Budget in providing the necessary data and program guidance.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:						
Regulated Community	7,223,975	7,223,975	7,223,975	7,223,975	7,223,975	7,223,975
Local Government						
State Government						
Total Savings	7,223,975	7,223,975	7,223,975	7,223,975	7,223,975	7,223,975
COSTS:						
Regulated Community	4,148,392	4,148,392	4,051,977	4,051,977	4,051,977	4,051,977
Local Government						
State Government						
Total Costs	4,148,392	4,148,392	4,051,977	4,051,977	4,051,977	4,051,977
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.
 Please see attachment titled "RAF Assumptions for Child Care Regulations."
 This response is completed by the Department's Office of Budget.

Linda Leebey 1-27-06

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

This response is completed by the Department's Office of Budget. The Program Office provides support to the Office of Budget in providing the necessary data and program guidance.

Program	FY -3 2002-2003	FY -2 2003-2004	FY -1 2004-2005	Current FY 2005-2006
CCDFBG – Admin	\$17,035,216	\$11,973,086	\$11,872,540	\$13,480,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The benefits of the proposed rulemaking outweigh the costs because of the additional health and safety protection afforded to children. The major cost associated with the amendments is the requirement related to protective surface covering under outdoor play equipment. Falls from play equipment can result in serious, debilitating injuries and death. The health and safety protection gained outweighs the cost.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulatory methods were not considered since this regulation is mandated by state law (62 P. S. §§ 901-922 and 1001-1087).

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

For many of the proposed amendments, the requirements reflect current statements of policy and current laws; therefore, facilities are already in compliance with the requirements. The Department did not alter the requirements that currently appear in statements of policy.

(24) Are there any provisions that are more stringent than federal standards? If yes,

Regulatory Analysis Form

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Research of other states revealed that Pennsylvania's regulations for child care facilities generally present higher standards of care than other states. Forty-six states include kindergarten children in the definition of school-age child. Eight states require orientation training for individuals who want to operate child care facilities. Most states include requirements related to providing care for children with special needs in the same regulatory chapters as the general standards relating to child care facilities.

Ten other states require that protective surface covering under outdoor play equipment must comply with the requirements of the CPSC or an equivalent standard.

Four states require child health assessments in accordance with the American Academy of Pediatrics (AAP) schedule recommendations. Forty-five states establish health report requirements in their regulations. The Department's proposed rulemaking relating child health reports exceeds the health report requirements in the 45 states that establish their own requirements.

Twenty-one other states require that infants be placed on their backs to sleep.

The regulation will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The proposed rulemaking does not affect existing or proposed regulations of the Department or another state agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department will meet and discuss specific issues relating to the proposed rulemaking with affected individuals and organizations, based on the public comments received.

(28) Will the regulation change existing reporting, record keeping, or other paperwork

Regulatory Analysis Form

requirements? Describe the changes and attach copies of forms or reports that will be required as a result of implementation, if available.

The proposed amendment requiring program plans will result in increased paperwork. The plan must be developed and updated. The plan must include documented observation of the child's development. The Department will develop tools to assist the provider in completing the program plan and observation.

The proposed amendment requiring that each child care center and group day care home operator must certify that no hazardous equipment is on the premises will result in increased paperwork. The Department will develop the certification document. It should take no more than 10 minutes for a facility to complete the self-certification form. This requirement is not applicable to family child day care homes.

(29) Please list any special provisions that have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

This proposed rulemaking applies to all child care facilities. There are special provisions relating to children with special needs to address and promote inclusion of all children in child care facilities.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?
Respond in complete sentences.

The final rulemaking will be effective 120 days after publication in the Pennsylvania Bulletin. In addition, the Department will afford 2 years following the effective date for facilities to comply with the requirement relating to protective surface covering under outdoor play equipment.

(31) Provide the schedule for continual review of the regulation.

On an ongoing basis, the Department will review inspection results to determine trends related to regulatory noncompliance. In addition, the Department will review updates related to health and safety recommendations for child care facilities and assess the need for regulatory amendments.

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REVIEW COMMISSION

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

2539

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved
as to form and legality.
Attorney General

Amy M. Elliott
By: _____

(Deputy Attorney General)

MAY 11 2006

Date of Approval

π Check if applicable
Copy not approved.
Objections attached.

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated
by:

DEPARTMENT OF PUBLIC WELFARE

(Agency)

LEGAL COUNSEL: Jennifer H. Whare

DOCUMENT/FISCAL NOTE NO. 14-506

DATE OF ADOPTION: _____

BY: Estelle B. Lehman

TITLE: SECRETARY OF PUBLIC WELFARE
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to
form and legality. Executive or
Independent Agencies.

BY: *[Signature]*
DAVID J. DEUKES

APR 21 2006

Date of Approval

EXECUTIVE

(Deputy General Counsel)

(Chief Counsel, Independent Agency)

(Strike inapplicable title)

π Check if applicable. No Attorney
General approval or objection
within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF CHILD DEVELOPMENT

- [55 Pa. Code Chapter 3270, Child Day Care Centers]
- [55 Pa. Code Chapter 3280, Group Child Day Care Homes]
- [55 Pa. Code Chapter 3290, Family Child Day Care Homes]
- [55 Pa. Code Chapter 3300, Specialized Day Care Services for Children with Disabilities]

Child Care Facilities

Statutory Authority

Notice is hereby given that the Department of Public Welfare (Department) under the authority of Articles IX and X of the Public Welfare Code (62 P. S. §§ 901-922 and 1001-1087) intends to amend the regulation set forth in Annex A.

Purpose of Regulation

The child care facility regulations at 55 Pa. Code Chapters 3270, 3280, 3290 and 3300 provide standards to aid in protecting the health, safety and rights of children and to reduce risks to children in child day care centers, group child day care homes and family child day care homes. The regulations identify the minimum level of compliance necessary to obtain the Department's certificate of compliance to operate a child care center or group child day care home or certificate of registration to operate a family child day care home.

The proposed rulemaking is needed to update the minimum standards for child care facilities. The current regulations were published in April 1992 and have not been amended since. The regulations need to be updated to reference the current laws that directly impact the operation of child care facilities, to incorporate the Department's statements of policy issued since 1992, to implement changes in recommended health and safety practices, to clarify minimum standards and to reflect best practice in the field of child care.

Requirements

1. Chapter 3300 (relating to specialized day care services for children with disabilities).

The Department proposes to delete Chapter 3300 and amend Chapters 3270, 3280 and 3290 (relating to child day care centers, group child day care homes, and

family child day care homes) to include requirements related to providing care to a child with special needs. The regulation at Chapter 3300 solely addresses child care provided to children with special needs; however, the equal opportunity provisions of the Americans with Disabilities Act (ADA) (42 U.S.C.A. §§ 12101 – 12213) endorse inclusive, non-exclusionary practices. By amending Chapters 3270, 3280 and 3290 to address care for a child with special needs the Department is clarifying that every child care facility is expected to make reasonable accommodation to enroll and provide care for children with special needs and to work with other persons who provide support services to the child and the child's family.

The Department proposes amending Chapters 3270, 3280 and 3290 to promote inclusion of children with special needs in all child care facilities and comply with the ADA philosophy.

§§ 3270.17, 3280.17 and 3290.17 (relating to service to child with special needs)

The proposed rulemaking requires the facility operator to make reasonable accommodation to provide care to a child with special needs and to permit service providers to work with the child on site. The proposed rulemaking requires a facility operator to make facility staff aware of early intervention and special education services. The Department will provide information and materials to facilities regarding community resources for children with special needs to share with staff and parents.

§§ 3270.133, 3280.133 and 3290.133 (relating to child medication and special diets).

The Department proposes to amend Chapters 3270, 3280 and 3290 to require a facility to make reasonable accommodation to administer a prescribed medication or

special diet to a child with special needs. The current regulation states a facility is not required to administer medications or special diets. Refusal to administer medication may violate the ADA.

2. §§ 3270.4, 3280.4 and 3290.4 (relating to definitions).

Child with special needs – The Department proposes to delete the use of the phrase “child with a disability” to use and define the phrase “child with special needs”. The proposed definition includes a child who has been assessed as having a special need and receives early intervention or special education services; has a formal behavioral plan determined by a physician, psychiatrist or psychologist or has a chronic health condition diagnosed by a medical professional that requires specialized health and related services. The change updates the regulation to reflect current practice related to services to a child with special needs.

§§ 3270.1-3270.4, 3280.1-3280.4 and 3290.1-3290.4

The Department proposes to change the definitions of preschool and young school-age child so that a child in kindergarten is considered a young school-age child. The Department’s current regulation defines “preschool child” as a child from 37 months of age through the date the child enters 1st grade of a public or private school system. The Department’s current regulation defines “young school-age child” as a child from the 1st grade through the 3rd grade of a public or private school system.

School-age child care programs are established to meet the unique needs of children who need child care before and after school hours, including kindergarten children. Many school-age programs are located in school buildings. Other school-age

programs transport children from school to the child care facility. The fact that a kindergarten child is a preschool child under the Department's regulation creates a disincentive for a school-age child care program to enroll a kindergarten child.

The Department's regulation permits a child day care center or group child day care home in which care is provided exclusively to school-age children to comply with fewer requirements than a facility that provides care for children of all age levels (see 55 Pa. Code §3270.241 and 3280.221 (relating to requirements specific to school-age programs)). In addition, a school-age child care program located in a school building is further exempt from physical site requirements in accordance with Section 7-776.1 of the Public School Code of 1949 (24 P.S. § 7-776.1 (relating to child day-care centers in school buildings)). A facility that enrolls a kindergarten child cannot be considered a school-age program because the facility is not providing care exclusively to school-age children. As a result, the facility must comply with all the requirements in Chapters 3270 and 3280 and will incur higher costs.

The Department's regulation requires a staff:child ratio for preschool children of 1:10 and a ratio for young school-age children of 1:12. When a kindergarten child is included in a group of young school-age children, the stricter preschool ratio must be maintained at a higher cost.

The Department's regulation relating to transportation of children states the driver may not be counted in the staff:child ratio when preschool children are transported but may be counted in the ratio when only school-age children are being transported (see 55 Pa. Code §§3270.173(b) and (c) and 3280.173(b) and (c) (relating to transportation ratios)). When a kindergarten child is being transported, the facility cannot count the

driver as part of the staff:child ratio and must provide more staff on the vehicle in order to meet the preschool staff:child ratio of 1:10 rather than the young school-age ratio of 1:12. The cost of transporting a kindergarten child is therefore higher than the cost of transporting a school-age child.

By changing the definition of young school-age child to include a child in kindergarten, a school-age child care facility will be able to enroll a kindergarten child without incurring the higher costs of providing care to a preschool child. This change will facilitate before- and after-school care for kindergarten children.

3. §§ 3270.119, 3280.119 and 3290.118 (relating to program plan).

The Department proposes requiring that a program plan be prepared for each child in care. Chapter 3300 requires program plans for a child with special needs. This requirement is not included in Chapters 3270, 3280, 3290. Extending the requirement to each child in care will produce a minimum level of program planning that facilitates each child's healthy and safe development.

4. §§ 3270.11, 3280.11 and 3290.11 (relating to pre-certification orientation training).

The Department proposes requiring a legal entity or a legal entity's representative to participate in pre-certification orientation training provided by the Department within 12 months prior to issuance of a certificate of compliance or registration. The Department will provide the pre-certification orientation training at different locations in the state at no charge to the legal entity. A legal entity that opens more than one child care facility within 12 months following participation in the training is not required to repeat the training. The Department currently offers pre-certification

orientation training to prospective individuals who want to operate child care facilities. Participation in the orientation training is voluntary. The Department's certification staff find that individuals who attend orientation training are better prepared to operate a child care facility and comply with minimum health and safety standards. Mandating attendance at pre-certification orientation training will afford additional protection for the health and safety of children in care.

5. § 3290.31 (relating to age and training).

The Department currently does not require a minimum level of education for a family child day care home (FDCH) operator. The Department proposes to increase the minimum qualifications of the FDCH operator by requiring that the operator have a high school diploma or general educational development certificate (GED) at the time of renewal of a certificate of registration. This will afford a FDCH operator who does not have a high school diploma or GED at initial registration a two year period in which to obtain a high school diploma or GED.

A Pennsylvania study conducted in 2002 revealed that 97% of FDCH operators had a high school diploma or GED. By requiring a FDCH operator to have a high school diploma or GED at the time of certificate renewal, the Department is requiring a minimum level of literacy sufficient to comply with the regulation and operate a small business. This will increase the health and safety of family child day care homes and also will put into regulation what already is the minimum educational background of most FDCH operators.

The Department proposes to permit a current FDCH operator who does not have a high school diploma or GED to continue to operate a facility that is registered as of the effective date of the final rulemaking.

6. §§ 3270.102, 3270.233, 3280.102, 3280.215, 3290.102 and 3290.212.

The Department proposes that the surface covering under outdoor play equipment that requires embedded mounting must meet the guidelines for loose-fill or unitary playground protective surface covering established by the United States Consumer Product Safety Commission (CPSC). The "Handbook for Public Playground Safety" published by CPSC provides standards for loose-fill and unitary surface coverings that reflect the fall height of the equipment and the type or depth of surface covering required to protect from injury if a child falls from the highest point of the equipment. The standards are available on the CPSC website at <http://www.cpsc.gov/cpscpub/pubs/325.pdf>. The Department's current statements of policy at §§3270.102a, 3280.102a and 3290.102a require the same standard for unitary surface covering. The current requirement for six inches of loose-fill material is not related to the height of the play equipment and does not meet minimum health and safety standards. Incorporating the CPSC standards in the regulation will afford more protection for children. In recognition of the possible cost to the provider, the Department proposes to permit a two year period following the effective date of the regulation to comply with the regulation.

The Department proposes to amend Chapters 3270 and 3280 to prohibit the use of children's products and toys determined hazardous by the CPSC. The current regulation does not prohibit the use of children's products or toys that have been

determined unsafe for children and have been recalled. Hazardous products that have been recalled present a risk to the health and safety of children in care. Information regarding product recalls is available on the CPSC website. A facility can subscribe to product recall alerts on the CPSC website at <http://www.cpsc.gov/cpsclist.asp>. The Department will provide information to facilities regarding how to receive the alerts. The Department will enforce the regulation by requiring a facility to self-certify at the time of certificate renewal that there are no recalled children's products or toys in the facility. Requiring facilities to remove hazardous products from child care facilities protects the health and safety of children.

7. §§ 3270.120, 3280.120 and 3290.119 (relating to infant sleep position).

The Department proposes to amend Chapters 3270, 3280 and 3290 by requiring that infants shall be placed on their backs to sleep unless there is a medical reason an infant should not sleep in this position. The American Academy of Pediatrics (AAP) policy on Sudden Infant Death Syndrome (SIDS) prevention recommends that infants be placed on their backs to sleep. This will reduce the risk of SIDS deaths in child care facilities.

8. §§ 3270.131, 3280.131 and 3290.131 (relating to health information).

The Department proposes to amend the regulations regarding child health assessments and screenings by deleting the requirement to adhere to the AAP recommendations. The Department proposes timelines for a facility to obtain initial and updated child health reports. The current regulation makes a facility responsible for updated child health assessments and health screening information that complies with the AAP recommendations. If the facility does not comply, the Department cites the

facility for noncompliance with the regulation. A child's parent makes health care decisions for the child and pays for health care provided to the child. This is outside the facility's control. Parents may incur added costs to comply with the AAP schedule if their insurance plan does not cover all the examinations included in the AAP schedule. In addition, some physicians charge parents to complete the health report required by regulation. In some areas of the state, facilities report that parents must wait months for well-child appointments and cannot meet the AAP timelines. The Department proposes to amend the regulation to provide less stringent timelines for updated health reports. The Department also proposes amendments regarding the information that must be included in the health report to include information needed to respond to a medical emergency and to control the spread of disease in a group setting.

The Department proposes to amend the immunization requirements to match the Pennsylvania Department of Health (DOH) regulation regarding immunizations in child care facilities. See 28 Pa.Code § 27.77 (relating to immunization requirements for children in child care group settings). The DOH regulation requires child care facilities to comply with the immunization schedule recommended by the Advisory Committee on Immunization Practices (ACIP), requires exclusion of a child who is not immunized and requires facilities to comply with the annual immunization reporting requirement at 28 Pa.Code § 27.77.

9. §§ 3270.201-.210, §§3280.201-.209 and §§3290.201-.208.

The Department proposes to amend Chapters 3270, 3280 and 3290 by deleting the night care section. The requirements relating to night care apply to child care

provided from 7:00 p.m. to 7:00 a.m. The same minimum health and safety standards should apply during all hours of care.

10. §§ 3270.241 and 3280.221 (relating to requirements specific to school-age programs).

The Department proposes amending the school-age requirements to include the proposed amendments relating to emergency plans (§§3270.27 and 3280.26), hazardous toys (§§3270.102(g) and 3280.102(g)) and program plans (§§3270.119(g) and 3280.119(g)). School-age facilities are currently subject to the requirements in the Department's statement of policy regarding emergency plans.

The Department also proposes to amend the requirements specific to school-age programs to require that staff persons in a school-age facility shall have immediate access to a working telephone on the facility premises. Staff working in some school-age facilities located in school buildings do not have access to a telephone. The telephone may be located in an office that is locked after school hours. In the event of an emergency, staff may be unable to access the telephone to call for help. Ensuring access to a telephone will increase safety for children in school-age facilities.

In addition to the proposed rulemaking detailed above, the Department proposes to amend Chapters 3270, 3280 and 3290 to incorporate existing statements of policy relating to emergency plan, posting the inspection summary, Department access, overpopulation of indoor child care space, supervision of children, water activity and release of children. The Department also proposes rulemaking to reflect current Pennsylvania laws relating to a certificate of occupancy, child safety restraints in vehicles and the prohibition against transporting children in 11-15 passenger vans.

Affected Individuals and Organizations

Children are directly impacted by the proposed rulemaking. The minimum health and safety standards in Chapters 3270, 3280 and 3290 protect children who attend more than 9000 certified and registered child care facilities in Pennsylvania. Parents also are impacted by the proposed rulemaking. Parents want their children to be safe in child care facilities. At the same time, the cost of child care is of concern to parents and directly impacts the choices that parents make regarding child care. The proposed rulemaking may result in decreased costs to parents due to the decreased costs associated with providing updated child health reports to the facility. The proposed rulemaking also will facilitate inclusion of children with special needs in child care facilities.

Child care facilities and staff also are affected by the proposed rulemaking. The proposed rulemaking may increase costs to some facilities. The Department provides 120 days for facilities to assess and plan for increased costs. In addition, a facility has 2 years to comply with the requirements relating to playground surfacing. The delay in implementation of the final rulemaking will afford the Department time to provide information and tools to assist in understanding and complying with the final rulemaking to facilities. The proposed rulemaking relating to staff health appraisals and tuberculosis testing will decrease costs to facilities and staff.

Accomplishments and Benefits

The child care service regulations were last published in April 1992. Since 1992, many changes have occurred that affect the regulations and operation of a child care

facility. The Department published 11 statements of policy clarifying or interpreting the regulations, including statements of policy relating to emergency plans, supervision of children, Syrup of Ipecac, release of children, posting inspection summaries, Departmental access and swimming pool accessibility. Laws that impact on operating a child care facility have changed relating to certificate of occupancy, vehicle safety, childhood immunizations and the ADA. New research has resulted in changes to recommendations relating to health and safety practices regarding SIDS prevention, playground safety and tuberculosis testing. In addition, the Department has noted areas in which facilities have difficulty complying with requirements, examined the reasons for noncompliance and, where possible, proposed amendments that will assist facilities to comply with the regulation and continue to ensure minimum health and safety at a facility.

The Department is proposing amendments for child care facilities in order to improve health and safety standards for all children in care, facilitate inclusion of children with special needs, incorporate current statements of policy and correct regulatory language to accurately reflect laws that impact facility operation.

Fiscal Impact

Kindergarten child as young school-age child:

The Department establishes daily reimbursement rates for facilities that participate in the child care subsidy program. The reimbursement rates are established by age level and are different for each county. The reimbursement rate for a preschool child is generally higher than the rate for a school-age child because the cost of

complying with the requirements related to caring for a preschool child are higher than the costs of caring for a school-age child.

The proposed amendment to change the definition of young school-age child to include a kindergarten child will also change the reimbursement rate for a kindergarten child from the preschool rate to the lower school-age rate. The daily reimbursement rate for a school-age child ranges from \$.10 cents to \$12.40 less than the reimbursement rate for a preschool child across 45 counties.

While the reimbursement rate may decrease, the cost of caring for a kindergarten child will also decrease. The cost of complying with the requirements applicable to a young school-age child is less than the cost of caring for a preschool child. The staff:child ratio for preschool children is 1:10 and the ratio for young school-age children is 1:12. In addition, a school-age facility will be able to enroll a kindergarten child and maintain its status as a school-age facility that is permitted to comply with the less stringent requirements for school-age programs. A facility that transports kindergarten and school-age children will be able to count the driver in the staff:child ratio and will no longer have to supply one or more additional staff persons on the vehicle to comply with ratio requirements related to transporting preschool children. The decrease in the daily reimbursement rate will be offset by lowered operating costs.

Pre-certification orientation:

Pre-certification orientation may create costs to an individual who wants to apply for a certificate of compliance or registration. The training will require a full day including travel and training time. The individual's costs will vary depending on the distance the individual must travel to participate in training. Using the Commonwealth

mileage rate, an individual who travels 200 miles round trip would incur a travel cost of \$97.00.

For individuals currently operating or working in child care facilities, attendance at orientation training would be part of their job and they would be paid for the time to attend the training.

An individual who operates a family child day care home or group child day care home and who wants to open a new facility may have to arrange for staff to work at the facility while the individual attends orientation training. According to the Pennsylvania Department of Labor and Industry (L&I), the average wage for a child care worker is \$8.50 per hour. If substitute staff must be hired to cover an eight hour shift, the estimated cost is \$68.00.

An individual who is employed outside the child care field and who wants to open a facility may miss a day of work to attend orientation training and may lose wages for that day. Based on L&I's statistics regarding the average state wage, the individual may lose \$147 in wages to attend orientation training.

Ventilation required at 82° F:

The current regulation requires that when the indoor temperature exceeds 85° F in a child care space, a means of mechanical air circulation shall be operating. Many facilities already have a means of ventilation in place at the facility. Ventilation may be provided through using a fan. If a facility has to purchase a fan, the cost of a fan will vary depending on the type of fan i.e., standing fan, window fan, wall fan or ceiling fan.

The estimated costs would be anywhere from \$15.00 to \$100.00 depending upon the type of fan purchased.

Disposable, nonporous gloves in first aid kit:

The addition of disposable, nonporous gloves to the first aid kit represents increased cost to a facility. The use of gloves is a universal precaution to prevent the spread of disease transmitted via body fluids. The cost of a box of 100 gloves ranges from \$2.99 to \$8.99. The rate at which the gloves are used to administer first aid is unknown. The health and safety protection afforded to children and staff by using gloves outweighs the cost.

Protective surfacing under outdoor play equipment:

The amendment relating to surface covering under outdoor embedded play equipment will result in increased costs for facilities where the surface covering does not meet the CPSC guidelines. The current regulation requires at least six inches of loose-fill material under the equipment. If the facility must modify the protective surface to comply with the regulation, the cost will depend upon the fall height from the equipment, the type of surface covering used and the size of the area that must be covered.

A facility that has a unitary surface covering that currently meets the requirements in the Department's statement of policy will be in compliance with the amended regulation.

Program plan:

Facilities will incur added costs in preparing a program plan for each child twice a year. The current regulation at Chapter 3300 requires that each child with special needs must have a program plan that is reviewed every three months and rewritten annually. The proposed amendment relating to program plan requires that each child must have a program plan developed at initial attendance and the plan must be reviewed every six months. The Department estimates that on average, an initial program plan may take an hour to develop and that each review may take one-half hour. The Department does not have data on the average annual number of new enrollments at a facility. The child care center director, group child day care home primary staff person or family child day care home operator is responsible for program plan reviews. The Department estimates the average costs of preparing program plan reviews to be as follows: child care center - \$832.00; group child day care home \$199.68; family child day care home - \$99.84.

Staff health:

Staff persons will save money from the decreased requirements for staff health appraisals. By changing the requirement for annual health appraisals to bi-annual health appraisals, each staff person will save \$75.00 to \$150.00 per year. In addition, eliminating the requirement for bi-annual tuberculosis testing will save each staff person an additional \$25.00 to \$75.00 every two years.

Paperwork Requirements

Sections 3270.119, 3280.119, and 3290.118 (relation to program plan) will result in increased paperwork. The plan must be developed at the time of initial attendance

and updated every six months. The plan must include documented observation of the child's development. The Department will develop tools to assist the provider in completing the program plan and observation.

The proposed rulemaking requires that each child day care center and group child day care home must certify that no hazardous equipment is on the premises. The Department will develop the certification document. The form will take no more than 10 minutes for the facility to complete.

Effective Date

This regulation is effective *120 calendar days* after publication in the **Pennsylvania Bulletin**. The Department is providing an additional two years beyond the effective date for facility operators to comply with the amended regulation relating to protective surface covering under outdoor play equipment.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Jennifer Lau, Bureau of Certification Services, Office of Child Development, Department of Public Welfare, 1401 North Seventh Street, PO Box 2675, Harrisburg, Pennsylvania 17105, or via e-mail to jlau@state.pa.us within **30 calendar days** after the date of publication of this proposed rulemaking in the ***Pennsylvania Bulletin***.

Reference Regulation No. *14-506* when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

Regulatory Review Act

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on **MAY 23 2006** the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Children and Youth and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under § 5(g) of the Regulatory Review Act, if the IRRC has any comments, recommendations or objections to any portion of the proposed regulation, it may notify the Department and the Committees within 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review by the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final publication of the regulation.

Annex A

TITLE 55. PUBLIC WELFARE

PART V. CHILDREN, YOUTH AND FAMILIES MANUAL

Subpart D. Nonresidential Agencies, Facilities and Services

Article I. Licensing/Approval

CHAPTER 3270. CHILD DAY CARE CENTERS

GENERAL PROVISIONS

* * * * *

§ 3270.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

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ACIP—The Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, United States Department of Health and Human Services.

* * * * *

[*Age-appropriate child health assessment*—A written report assessing a child's health status. The report is signed by a physician or a CRNP and includes the child's health history, the child's physical examination and a plan for treatment of health problems identified in the health assessment.]

Age level—The grouping category appropriate for the child's age.

- (i) *Infant*—A child from birth [through 12 months] to one year of age.
- (ii) *Young toddler*—A child from [13 through 24 months] one to two years of age.
- (iii) *Older toddler*—A child from [25 through 36 months] two to three years of age.

(iv) *Preschool child*—A child from [37 months of age through] three years of age to the date the child enters [1st grade of] kindergarten in a public or private school system.

(v) *Young school-age child*—A child [from the 1st grade through the 3rd] who attends kindergarten to the date the child enters the 4th grade of a public or private school system.

(vi) *Older school-age child*—A child [from] who attends the 4th grade of a public or private school system through 15 years of age.

* * * * *

Child with [a disability] special needs— A child who [does not function according to age-appropriate expectations in the areas of emotional, cognitive, communicative, perceptual-motor, physical or social development and requires special adaptations, program adjustments and related services on a regular basis to function in an adaptive manner. Examples of a child with a disability include a child who has:

(i) A developmental delay.

(ii) A neurologically-based condition, such as mental retardation, cerebral palsy, autism, epilepsy or another condition closely related to mental retardation or requiring treatment similar to that required by mentally retarded children.

(iii) Mental retardation associated with sociocultural or psychosocial disadvantage.

(iv) A genetic disorder or physiological condition usually associated with mental retardation.

(v) Problems of social or emotional adjustment.

(vi) A physical disability such as visual impairment, hearing impairment, speech or language impairment, or a physical handicap.] has one or more of the following:

(i) A disability or developmental delay identified on an Individualized Education Program or an Individualized Family Service Plan.

(ii) A formal behavioral plan that has been determined by a licensed physician, psychiatrist or licensed psychologist.

(iii) A chronic health condition diagnosed by a licensed physician, physician's assistant or CRNP that requires health and related services of a type or amount beyond that required by children generally.

* * * * *

Inspection summary – A document prepared by an agent of the Department describing each regulatory noncompliance item confirmed as a result of a facility inspection.

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GENERAL REQUIREMENTS

§ 3270.11. Application for and issuance of a certificate of compliance.

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(b) A legal entity or a representative of the legal entity shall participate in a pre-certification orientation training provided by the Department within 12 months prior to issuance of a certificate of compliance. The pre-certification orientation does not count toward the annual minimum of 6 hours of child care training required at § 3270.31(e) (relating to age and training).

[(b)] (c) Application for a certificate of compliance shall be submitted to the appropriate regional day care office in accordance with Chapter 20 (relating to the licensure or approval of facilities and agencies).

[(c)] (d) A certificate of compliance is issued in the manner described in Chapter 20, for a period not to exceed 12 months from the date of issue.

[(d)] (e) A facility will be inspected at least once every 12 months by an agent of the Department.

[(e)] (f) The facility is subject to announced and unannounced inspections in accordance with § 3270.24(b) (relating to Departmental access).

[(f)] (g) Sanctions relating to the status of a certificate of compliance are applied under the authority of applicable sections of the act, Chapter 20 and this chapter.

[(g)] (h) A facility whose certificate of compliance is current as of [April 4, 1992,] effective date of regulation will not be inspected under this chapter until the current certificate of compliance is due to be renewed or when a regulatory violation is alleged and the Department responds to the alleged violation with an inspection.

* * * * *

§ 3270.15. [Firesafety approval] Certificate of occupancy.

A certificate of compliance will not be granted by the Department until the legal entity provides a certificate of occupancy as proof of compliance with the applicable requirements of the Department of Labor and Industry at 34 Pa. Code [Chapter 54 (relating to Group B educational) or local authorities in Scranton, Pittsburgh or Philadelphia] § 403.23 (relating to child day care facilities).

* * * * *

§ 3270.17. Service to a child with [a disability] special needs.

[A facility serving a child with a disability as defined in § 3270.4 (relating to definitions) shall also comply with applicable sections of Chapter 3300 (relating to specialized day care service for children with disabilities).]

(a) The operator shall make reasonable accommodation to include a child with special needs in accordance with the Americans with Disabilities Act (ADA).

(b) The operator shall permit an adult individual who provides specialized services to a child with special needs to provide those services on the facility premises as specified in the child's Individualized Education Program, Individualized Family Service Plan, formal behavioral plan or program plan as defined in §3270.119 (relating to program plan).

(c) The operator is responsible to make staff persons aware of community resources for the family of a child with possible special needs.

(1) When the director believes a child may need an assessment due to developmental, behavioral or health concerns, the director shall inform the child's parent of the concern and shall provide information to the parent regarding resources for referral and assistance.

(2) When a staff person believes a child may need an assessment due to developmental, behavioral or health concerns, the staff person shall inform the director. The director shall inform the child's parent of the staff person's concern and shall provide information to the parent regarding resources for referral and assistance.

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§ 3270.24. Departmental access.

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(c) An agent of the Department will inspect compliance with this chapter in all areas of the facility premises that are accessible to children.

* * * * *

§ 3270.25. Availability of certificate of compliance and applicable regulations.

(a) The facility's current certificate of compliance and a copy of the applicable regulations under which the facility is certified shall be posted in a conspicuous location used by parents, with instructions for contacting the appropriate regional day care office posted at the same location.

(b) The operator shall post a copy of each inspection summary issued by the Department next to the facility's certificate of compliance in a conspicuous location used by parents. The inspection summary shall remain posted until an agent of the Department verifies that each regulatory noncompliance item cited on the inspection summary has been corrected.

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§ 3270.27. Emergency plan.

(a) The facility shall have an emergency plan that provides for:

(1) Shelter of children during an emergency.

(2) Evacuation of children from the facility.

(3) A method for facility persons to contact parents as soon as reasonably possible when an emergency situation arises.

(4) A method for facility persons to inform parents that the emergency has ended and to provide instruction as to how parents can safely be reunited with their children.

(b) The operator shall review the emergency plan at least annually and update the plan as needed. Each review and update of the emergency plan shall be documented in writing and kept on file at the facility.

(c) Each facility person shall receive training regarding the emergency plan at the time of initial employment, on an annual basis and at the time of each plan update. The date of each training and the name of each facility person who received the training shall be documented in writing and kept on file at the facility.

(d) The emergency plan shall be posted in the facility at a conspicuous location.

(e) The operator shall provide to the parent of each enrolled child a letter explaining the emergency procedures described in subsection (a). The operator shall also provide to the parent of each enrolled child a letter explaining any subsequent update to the plan.

(f) The operator shall send a copy of the emergency plan and subsequent plan to the county emergency management agency.

FACILITY PERSONS

§ 3270.31. Age and training.

* * * * *

(d) A Child Development Associate (CDA) credential or a Certified Childcare Professional (CCP) credential, as it applies to the staff qualifications in this chapter, is equivalent to [one of the following:

(1) Fifteen] nine credit hours from an accredited college or university in early childhood education or child development and 1 year of experience with children.

[(2) Thirty credit hours from an accredited college or university in early childhood education or child development.]

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STAFF-CHILD RATIO

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§ 3270.52. Mixed age level.

When children are grouped in mixed age levels, [the following child group sizes and ratios of staff persons apply:

<i>Mixed Age Levels</i>	<i>Staff</i>	<i>Children</i>	<i>Maximum Group Size*</i>	<i>Total Number of Staff Required for the Maximum Group Size</i>
Infant/young or older toddler	1	4	8	2
Infant/preschool	1	4	8	2
Young toddler/preschool	1	5	10	2
Older toddler/preschool	1	6	12	2
Preschool/young or older	1	10	20	2

school-age

*No more than 50% of each group may be of the older age level] the age of the youngest child in the group determines the staff:child ratio and maximum group size in accordance with the requirements at § 3270.51 (relating to similar age level).

* * * * *

PHYSICAL SITE

§ 3270.61. Measurement and use of indoor child care space.

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(h) The capacity established for an indoor space may not be exceeded except [at] in the following situations:

(1) At naptime, when toddler or preschool children are resting on rest equipment described in § 3270.106 (relating to rest equipment) if the following conditions are met:

[(1)] (i) At naptime, the capacity is determined by the requirement for placement of rest equipment described at § 3270.106(f).

[(2)] (ii) At naptime, the capacity may be exceeded for a period no longer than 2 1/2 consecutive hours, no more than twice in a program day.

(2) When older toddler, preschool or school-age children are participating in a program activity if the following conditions are met:

(i) The capacity of the indoor child care space may be exceeded for no more than two separate ½ hour time periods daily.

(ii) Each time period shall be designated on the facility's schedule of daily activities.

(iii) The space may not be occupied by children of the infant or young toddler age levels during a time period when the capacity is exceeded.

(iv) The number of children present in the space may not be more than twice the measured capacity of the space.

(3) When a meal is served in a space designated and measured as indoor child care space if the following conditions are met:

(i) The capacity of a space may be exceeded when children are eating for no more than one hour daily.

(ii) The meal time shall be designated on the facility's schedule of daily activities.

(iii) The number of children present in the space may not be more than twice the measured capacity of the space.

(g) The total number of children receiving child day care services at the facility at any one time may not exceed the maximum capacity stated on the facility's certificate of compliance.

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§ 3270.70. Indoor temperature.

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(b) If the indoor temperature exceeds [85°] 82° F in a child care space, a means of mechanical air circulation shall be operating.

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§ 3270.75. First-aid kit.

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(c) A first-aid kit shall contain the following: soap, an assortment of adhesive bandages, sterile gauze pads, tweezers, tape, scissors and [Syrup of Ipecac] disposable, nonporous gloves. [Instructions for use of the Syrup of Ipecac shall be included as described at § 3270.133(9) (relating to child medication and special diets)].

(d) One first-aid kit per child care group shall accompany children and facility persons on excursions from the facility. Each first aid kit taken on an excursion shall contain a bottle of water in addition to the items specified at subsection (c).

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§ 3270.82. Toilet areas.

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(f) Toilets and training chairs may not be located in an area used for cooking or eating. [If the toilet area is not on the same floor as the child care space, an adult shall accompany toddler and preschool children going to and from the toilet area.]

EQUIPMENT

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§ 3270.102. Condition of play equipment.

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(c) Outdoor equipment that requires embedded mounting shall be mounted over [at least 6 inches of loose-filled, impact-absorbing materials,] a loose-fill or unitary playground protective surface covering that meets the recommendations of the United States Consumer Product Safety Commission. The equipment shall be anchored firmly and be in good repair.

* * * * *

(g) Children's equipment and toys described as hazardous by the United States Consumer Product Safety Commission shall not be used by children at the facility and shall not be on the premises at the facility.

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§ 3270.104. Furniture.

(a) Furniture shall be durable, safe, easily cleaned and appropriate for the child's size, age and [disability] special needs.

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PROGRAM

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§ 3270.113. Supervision of children.

(a) Children on the facility premises and on facility excursions off the premises shall be supervised by a staff person at all times. Outdoor play space used by the facility is considered part of the facility premises.

(1) Each staff person shall be assigned the responsibility for supervision of specific children. The staff person shall know the names and whereabouts of the children in his assigned group. The staff person shall be physically present with the children in his group on the facility premises and on facility excursions off the facility premises.

(2) The requirement for supervision on and off the facility premises includes compliance with the staff:child ratio requirements in §§ 3270.51--3270.54.

* * * * *

(e) A facility person shall not restrain a child by using bonds, ties or straps to restrict a child's movement or by enclosing the child in a confined space, closet or locked room. The prohibition against restraining a child does not apply to the use of adaptive equipment prescribed for a child with special needs.

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§ 3270.115. Water activity.

(a) *Swimming.*

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(3) An aboveground swimming pool which is not in use shall be made inaccessible to children in accordance with the swimming pool barrier guidelines of the United States Consumer Product Safety Commission.

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§ 3270.117. Release of children.

(a) A child shall be released only to the child's parent or to an individual designated in writing by the enrolling parent. A child shall be released to either parent unless a court order on file at the facility states otherwise.

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§ 3270.119 Program plan.

(a) The director or group supervisor shall develop a program plan specific to the child no later than 60 days following the child's first day of attendance at the facility. The program plan for a child with special needs shall incorporate the Individualized Education Program, Individualized Family Service Plan or formal behavioral plan if that plan is reviewed and implemented within the 60 days.

(b) The child's program plan shall include the following:

(1) A documented observation of the child's development.

(2) If applicable, identification of the child's unique needs and recommendations, plans or referrals as appropriate. The director shall inform the parent of the possible special needs of the child and provide information to the parent regarding resources for referral and assistance.

(3) A plan to facilitate the child's continued development and participation in the daily activities described in § 3270.111 (relating to daily activities), including involvement of a specialist who may be helping to support the child and family.

(c) The director or group supervisor shall review the child's program plan according to the following schedule:

(1) For an infant, toddler or preschool child, the plan shall be reviewed at least every 6 months.

(2) For a school-age child, the plan shall be reviewed at least every 12 months.

(3) For a child with special needs, the program plan shall also be reviewed according to the schedule specified in the Individualized Education Program, Individualized Family Service Plan or formal behavioral plan.

(d) The director or group supervisor shall revise the plan as needed to meet the needs of the child at each review.

(e) The director or group supervisor shall provide to the following individuals an opportunity to provide input into the development of the child's initial program plan and each review of the child's program plan:

(1) The child's parent.

(2) Other staff persons who supervise the child at the facility.

(3) Other individuals who provide early intervention or special education services, treatment, therapy or other specialized services to the child.

(4) The child if the child is a school-age child.

(f) The director or group supervisor shall date and sign the child's initial program plan and each reviewed or updated program plan. The child's parent shall be given an opportunity to sign each program plan and will receive a copy of each dated and signed program plan.

(g) A signed and dated copy of the child's initial program plan and each reviewed or updated program plan shall be placed in the child's facility record.

§ 3270.120. Infant sleep position.

Infants shall be placed on their backs to sleep unless there is a medical reason an infant should not sleep in this position. The medical reason shall be documented in a statement signed by a physician, physician's assistant or CRNP and placed in the child's record at the facility.

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PROCEDURES FOR ADMISSION

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§ 3270.122. Admission interview.

A child shall be interviewed or observed by the operator and when possible shall have the opportunity to visit the facility prior to being admitted for care. The child shall be told as much about the service being planned as he can understand. If the parent indicates that the child has a [disability or handicapping condition] special need, the operator shall

discuss the condition with the parent, refer to § 3270.4 (relating to definitions), and comply with §§ 3270.17, 3270.124 and 3270.131 (relating to service to a child with [a disability] special needs; emergency contact information; and health [assessment] information).

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§ 3270.124. Emergency contact information.

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(b) Emergency contact information shall include the following:

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(5) Information on the [disability of the child] child's special needs, as specified by the child's parent[or], physician, physician's assistant or CRNP, which is needed in an emergency situation.

* * * * *

CHILD HEALTH

§ 3270.131. Health [assessment] information.

(a) [An] The operator shall require the parent of an enrolled child, including a child, a foster child and a relative of an operator or a facility person, [shall have an age-appropriate] to provide an initial health report [on record at the facility] no later than 60 days following [enrollment] the first day of attendance at the facility.

(1) The initial health report for an infant shall be dated no more than 3 months prior to the first day of attendance at the facility.

(2) The initial health report for a young toddler shall be dated no more than 6 months prior to the first day of attendance at the facility.

(3) The initial health report for an older toddler or preschool child shall be dated no more than 1 year prior to the first day of attendance at the facility.

(4) The initial health report for a school-age child shall be dated in accordance with the requirements for medical examinations for school attendance at 28 Pa. Code § 23.2 (relating to medical examinations).

(b) [An age-appropriate health assessment shall be conducted according to the recommended schedule for routine health supervision as referenced in the most current edition of the American Academy of Pediatrics (AAP) *Guidelines for Health Supervision*. This publication can be obtained from the American Academy of Pediatrics, 141 Northwest Point Boulevard, Post Office Box 927, Elk Grove Village, Illinois 60007.] The operator shall require the parent to provide an updated health report in accordance with the following schedules:

(1) At least every 6 months for an infant or young toddler.

(2) At least every 12 months for an older toddler or preschool child.

(c) A health [assessment shall be conducted and a] report shall be written and signed by a physician, physician's assistant or a CRNP. The signature shall include the individual's professional title.

(d) The health report shall include the following information:

(1) A review of the child's [previous] health history.

(2) [The results of a physical examination] A list of the child's allergies.

(3) [An assessment of the child's growth patterns] A list of the child's current medication and the reason for the medication.

(4) [The physician's or CRNP's] An assessment of [a disability or a] an acute or chronic health problem or special need and recommendations for treatment or services.

(5) A review of the child's immunized status according to recommendations of the [AAP. The Department will provide the AAP guidelines upon request.] ACIP.

* * * * *

(7) [A review of age-appropriate screenings according to the standards of the AAP.] A statement that the child is able to participate in child care and appears to be free from contagious or communicable disease.

(e) [The operator shall comply with the Department of Health (DOH) regulation at 28 Pa. Code § 27.121a (Reserved) and shall implement dismissal policies in accordance with that section. The Department will provide the DOH regulation upon request.] The facility may not accept or retain an infant 2 months of age or older, a toddler or a preschool child at the facility for more than 60 days following the first day of attendance at the facility unless the parent provides written verification from a physician, physician's assistant, CRNP, the Department of Health or a local health department of the dates (month, day and year) the child was administered immunizations in accordance with the recommendations of the ACIP.

(1) The facility shall require the parent to provide updated written verification from a physician, physician's assistant, CRNP, the Department of Health or a local health department of ongoing vaccines administered to an infant, toddler or preschool child in accordance with the schedule recommended by the ACIP.

(2) Exemption from immunization shall be documented as follows:

(i) Exemption from immunization for religious belief or strong personal objection equated to a religious belief shall be documented by a written, signed and dated statement from the child's parent or guardian. The statement shall be kept in the child's record.

(ii) Exemption from immunization for reasons of medical need shall be documented by a written, signed and dated statement from the child's physician, physician's assistant or CRNP. The statement shall be kept in the child's record.

(3) The facility shall implement dismissal policies in accordance with the Department of Health regulation at 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings).

(4) The facility shall comply with the annual immunization reporting requirements in accordance with the Department of Health regulation at 28 Pa. Code § 27.77.

* * * * *

§ 3270.133. Child medication and special diets.

The operator shall make reasonable accommodation in accordance with the Americans with Disabilities Act to facilitate administration of medication or a special diet prescribed by a physician, physician's assistant or CRNP for a child with special needs. Facility persons are not required to administer [child] medication or special diets which are requested or required by a parent, a physician, a physician's assistant or a CRNP to a child who does not have special needs. [If child] When medication or special diets are administered, the following requirements apply:

* * * * *

[(9) A staff person who administers Syrup of Ipecac shall request case-specific instruction for administration from a poison control center or a physician. The staff person shall record in the child's file the date and time instruction was received, the name of the individual who issued the instruction, the content of the information and the time, date and amount of Syrup of Ipecac administered.]

* * * * *

§ 3270.135. Diapering requirements.

(a) When children are diapered, the facility shall use disposable diapers, a diaper service or arrange with the parent to provide a daily diaper supply.

* * * * *

(3) If disposable diapers are provided by a parent or by a facility, a soiled diaper shall be discarded [in one of the following ways. The diaper shall be:

(i) immediately placed] by immediately placing the diaper into a [lined outdoor trash container.

(ii) Placed in an individual, tied bag and discarded indoors until outdoor disposal is possible] plastic-lined, hands-free covered can.

* * * * *

(e) A staff person shall check a child's diaper at least every 2 hours and whenever the child indicates discomfort or exhibits behavior that suggests a soiled diaper. A staff person shall change a child's diaper when the diaper is soiled.

* * * * *

ADULT HEALTH

§ 3270.151. Health assessment.

(a) A facility person providing direct care who comes into contact with the children or who works with food preparation shall have a health assessment conducted within [3] 12 months prior to providing initial service in a child care setting and every [year] 24 months thereafter. A health assessment is valid for [12] 24 months following the date of signature, if the person does not contract a communicable disease or develop a medical problem.

(b) A health assessment shall be conducted and a report shall be written and signed by a physician, physician's assistant or CRNP. The signature shall include the individual's professional title.

(c) The health assessment shall include the following:

* * * * *

(2) Tuberculosis screening by the Mantoux method at initial employment [and subsequently at least once every 2 years]. Subsequent tuberculosis screening is not required unless directed by a physician, physician's assistant, CRNP, the Department of Health or a local health department.

* * * * *

TRANSPORTATION

§ 3270.175. Safety restraints.

(a) A child [4] seven years of age or younger shall be transported in accordance with the requirements for parents and guardians as stated in 75 Pa.C.S. § 4581 (relating to restraint systems).

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§ 3270.176. Vehicles.

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(f) The facility may not transport a child in an 11-15 passenger van in accordance with the requirements of 67 Pa. Code Chapter 171 (relating to school buses and school vehicles).

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CHILD RECORDS

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§ 3270.182. Content of records.

A child's record shall contain the following information:

- (1) Initial and subsequent health [assessments] reports.

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[NIGHT CARE]

§ 3270.201. (Reserved).

§ 3270.202. (Reserved).

§ 3270.203. (Reserved).

§ 3270.204. (Reserved).

§ 3270.205. (Reserved).

§ 3270.206. (Reserved).

§ 3270.207. (Reserved).

§ 3270.208. (Reserved).

§ 3270.209. (Reserved).

§ 3270.210. (Reserved).

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SPECIAL EXCEPTIONS

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§ 3270.233. Play surfaces.

(a) A facility certified by the Department as of [April 4, 1992, is exempt from the requirement to provide an impact-absorbing ground cover, as described in § 3270.102(c) (relating to condition of play equipment)] date of final publication has until two years from the effective date of the regulation to comply with the protective surface requirement described in § 3270.102(c) (relating to condition of play equipment).

(b) A facility certified by the Department as of [April 4, 1992,] date of final publication which has a play surface not in compliance with § 3270.102(e) [is exempt from the requirement unless the surface is replaced] has until two years from the effective date of the regulation to comply with the requirement described in § 3270.102(e).

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SCHOOL-AGE PROGRAMS

§ 3270.241. Requirements specific to school-age programs.

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(b) A facility or a space in a facility in which care is provided exclusively to school-age children shall comply only with the following sections:

* * * * *

(2) *General requirements.* Sections 3270.11—[3270.26] 3270.27 (relating to general requirements).

* * * * *

(7) *Equipment*. Sections 3270.101, 3270.102(a)—(c) and (g), 3270.104, 3270.107 and 3270.108.

(8) *Program*. Sections 3270.111, 3270.113, 3270.115(a) and (b), 3270.116, [and] 3270.118 and 3270.119.

* * * * *

(10) *Child health*. Sections 3270.131—3270.134(a) and 3270.136—3270.138. An equivalent [age-appropriate] health [assessment] report completed by a school is acceptable as documentation of child health for a school-age child.

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(17) Staff persons shall have immediate access to a working telephone on the facility premises.

CHAPTER 3280. GROUP CHILD DAY CARE HOMES

GENERAL PROVISIONS

* * * * *

§ 3280.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

ACIP—The Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, United States Department of Health and Human Services.

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[Age-appropriate child health assessment—A written report assessing a child's health status. The report is signed by a physician or a CRNP and includes the child's health

history, the child's physical examination and a plan for treatment of health problems identified in the health assessment.]

Age level—The grouping category appropriate for the child's age.

- (i) *Infant*—A child from birth [through 12 months] to one year of age.
- (ii) *Young toddler*—A child from [13 through 24 months] one to two years of age.
- (iii) *Older toddler*—A child from [25 through 36 months] two to three years of age.
- (iv) *Preschool child*—A child from [37 months of age through] three years of age to the date the child enters [first grade of] kindergarten in a public or private school system.
- (v) *Young school-age child*—A child [from the first grade through the 3rd] who attends kindergarten to the date the child enters the 4th grade of a public or private school system.
- (vi) *Older school-age child*—A child [from] who attends the 4th grade of a public or private school system through 15 years of age.

* * * * *

Child with [a disability] special needs— A child who [does not function according to age-appropriate expectations in the areas of emotional, cognitive, communicative, perceptual-motor, physical or social development and requires special adaptations, program adjustments and related services on a regular basis in order to function in an adaptive manner. Examples of a child with a disability include a child who has:

- (i) A developmental delay.

(ii) A neurologically-based condition, such as mental retardation, cerebral palsy, autism, epilepsy or another condition closely related to mental retardation or requiring treatment similar to that required by mentally retarded children.

(iii) Mental retardation associated with sociocultural or psychosocial disadvantage.

(iv) A genetic disorder or physiological condition usually associated with mental retardation.

(v) Problems of social or emotional adjustment.

(vi) A physical disability such as visual impairment, hearing impairment, speech or language impairment, or a physical handicap.] has one or more of the following:

(i) A disability or developmental delay identified on an Individualized Education Program or an Individualized Family Service Plan.

(ii) A formal behavioral plan that has been determined by a licensed physician, psychiatrist, or licensed psychologist.

(iii) A chronic health condition diagnosed by a licensed physician, physician's assistant or CRNP that requires health and related services of a type or amount beyond that required by children generally.

* * * * *

Inspection summary – A document prepared by an agent of the Department describing each regulatory noncompliance item confirmed as a result of a facility inspection.

* * * * *

GENERAL REQUIREMENTS

§ 3280.11. Application for and issuance of a certificate of compliance.

* * * * *

(b) A legal entity or a representative of the legal entity shall participate in a pre-certification orientation training provided by the Department within 12 months prior to issuance of a certificate of compliance. The pre-certification orientation does not count toward the annual minimum of six hours of child care training required at § 3280.31(e) (relating to age and training).

[(b)] (c) Application for a certificate of compliance shall be submitted to the appropriate regional day care office in accordance with Chapter 20 (relating to the licensure or approval of facilities and agencies).

[(c)] (d) A certificate of compliance is issued in the manner described in Chapter 20, for a period not to exceed 12 months from the date of issue.

[(d)] (e) A facility will be inspected at least once every 12 months by an agent of the Department.

[(e)] (f) The facility is subject to announced and unannounced inspections in accordance with § 3280.23 (relating to departmental access).

[(f)] (g) Sanctions relating to the status of a certificate of compliance are applied under the authority of applicable sections of the act, Chapter 20 and this chapter.

[(g)] (h) A facility whose certificate of compliance is current as of [April 4, 1992,] effective date of regulation will not be inspected under this chapter until the current certificate of compliance is due to be renewed or when a regulatory violation is alleged and the Department responds to the alleged violation with an inspection.

* * * * *

§ 3280.15. [Firesafety approval] Certificate of occupancy.

A certificate of compliance will not be granted by the Department until the legal entity provides a certificate of occupancy as proof of compliance with the applicable requirements of the Department of Labor and Industry at 34 Pa. Code [Chapter 54 or 56 (relating to Group B educational; and division C-3 small group habitation) or local authorities in Scranton, Pittsburgh or Philadelphia] § 403.23 (relating to child day care facilities).

* * * * *

§ 3280.16. Service to a child with [a disability] special needs.

[A facility serving a child with a disability as defined in § 3280.4 (relating to definitions) shall also comply with applicable sections of Chapter 3300 (relating to specialized day care service for children with disabilities).]

(a) The operator shall make reasonable accommodation to include a child with special needs in accordance with the Americans with Disabilities Act (ADA).

(b) The operator shall permit an adult individual who provides specialized services to a child with special needs to provide those services on the facility premises as specified in the child's Individualized Education Program, Individualized Family Service Plan, formal behavioral plan or program plan as defined in § 3280.119 (relating to program plan).

(c) The operator is responsible to make staff persons aware of community resources for the family of a child with possible special needs.

(1) When a primary staff person believes a child may need an assessment due to developmental, behavioral or health concerns, the primary staff person shall inform the child's parent of the concern and shall provide information to the parent regarding resources for referral and assistance.

(2) When a staff person believes a child may need an assessment due to developmental, behavioral or health concerns, the staff person shall inform the primary staff person. The primary staff person shall inform the child's parent of the staff person's concern and shall provide information to the parent regarding resources for referral and assistance.

* * * * *

§ 3280.23. Departmental access.

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(c) An agent of the Department will inspect compliance with this chapter in all areas of the facility premises that are accessible to children.

§ 3280.24. Availability of certificate of compliance and applicable regulations.

(a) The facility's current certificate of compliance and a copy of the applicable regulations under which the facility is certified shall be posted in a conspicuous location used by parents, with instructions for contacting the appropriate regional day care office posted at the same location.

(b) The operator shall post a copy of each inspection summary issued by the Department next to the facility's certificate of compliance in a conspicuous location used by parents. The inspection summary shall remain posted until an agent of the Department verifies that each noncompliance item noted on the inspection summary has been corrected.

* * * * *

§ 3280.26 Emergency plan.

(a) The facility shall have an emergency plan that provides for:

- (1) Shelter of children during an emergency.
- (2) Evacuation of children from the facility.
- (3) A method for facility persons to contact parents as soon as reasonably possible when an emergency situation arises.
- (4) A method for facility persons to inform parents that the emergency has ended and to provide instruction as to how parents can safely be reunited with their children.
- (b) The operator shall review the emergency plan at least annually and update the plan as needed. Each review and update of the emergency plan shall be documented in writing and kept on file at the facility.
- (c) Each facility person shall receive training regarding the emergency plan at the time of initial employment, on an annual basis and at the time of each plan update. The date of each training and the name of each facility person who received the training shall be documented in writing and kept on file at the facility.
- (d) The emergency plan shall be posted in the facility at a conspicuous location.
- (e) The operator shall provide to the parent of each enrolled child a letter explaining the emergency procedures described in subsection (a). The operator shall also provide to the parent of each enrolled child a letter explaining any subsequent update to the plan.
- (f) The operator shall send a copy of the emergency plan and subsequent plan to the county emergency management agency.

FACILITY PERSONS

§ 3280.31. Age and training.

* * * * *

(d) A Child Development Associate (CDA) credential or a Certified Childcare Professional (CCP) credential, as it applies to the staff qualifications in this chapter, is equivalent to [one of the following:

(1) Fifteen] nine credit hours from an accredited college or university in early childhood education or child development and 1 year of experience with children.

[(2) Thirty credit hours from an accredited college or university in early childhood education or child development.]

* * * * *

STAFF-CHILD RATIO

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§3280.52. Ratio requirements.

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(c) When children are grouped in mixed age levels, [the following child group sizes and ratios of staff persons apply:

	<i>Staff Children</i>			<i>Total Number of Staff Required for the Maximum Group Size</i>
	<i>1</i>	<i>4</i>	<i>12</i>	
Infant/young or older	1	4	12	3

toddler				
Young				
toddler/older	1	5	12	3
toddler				
Older toddler/				
preschool	1	6	12	2
Preschool/young				
school-age	1	10	12	2
Young school-				
age/older	1	12	12	1]
school-age				

the age of the youngest child in the group determines the staff:child ratio and maximum group size in accordance with the requirements at subsection (b).

* * * * *

PHYSICAL SITE

§ 3280.61. Measurement and use of indoor child care space.

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(h) The capacity established for an indoor space may not be exceeded except in the following situations:

(1) At naptime, when toddler or preschool children are resting on rest equipment described in § 3280.105 (relating to rest equipment) if the following conditions are met:

(i) The capacity is determined by the requirement for placement of rest equipment described at § 3280.105(f).

(ii) The capacity may be exceeded for a period no longer than 2 1/2 consecutive hours and no more than twice in a program day.

(2) When older toddler, preschool or school-age children are participating in a program activity if the following conditions are met:

(i) The capacity of the indoor child care space may be exceeded for no more than two separate ½ hour time periods daily.

(ii) Each time period shall be designated on the facility's schedule of daily activities.

(iii) The space may not be occupied by children of the infant or young toddler age levels during a time period when the capacity is exceeded.

(iv) The number of children present in the space may not be more than twice the measured capacity of the space.

(3) When a meal is served in a space designated and measured as indoor child care space if the following conditions are met:

(i) The capacity of a space may be exceeded when children are eating for no more than one hour daily.

(ii) The meal time shall be designated on the facility's schedule of daily activities.

(iii) The number of children present in the space may not be more than twice the measured capacity of the space.

* * * * *

§ 3280.70. Indoor temperature.

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(b) If the indoor temperature exceeds [85°] 82° F in a child care space, a means of mechanical air circulation shall be operating.

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§ 3280.75. First-aid kit.

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(c) A first-aid kit shall contain the following: soap, an assortment of adhesive bandages, sterile gauze pads, tweezers, tape, scissors and [Syrup of Ipecac] disposable, nonporous gloves. [Instructions for use of the Syrup of Ipecac shall be included as described at § 3270.133(9) (relating to child medication and special diets)].

(d) One first-aid kit per child care group shall accompany children and facility persons on excursions from the facility. Each first aid kit taken on an excursion shall contain a bottle of water in addition to the items specified at subsection (c).

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EQUIPMENT

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§ 3280.102. Condition of play equipment.

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(c) Outdoor equipment that requires embedded mounting shall be mounted over [at least 6 inches of loose-filled, impact-absorbing materials,] a loose-fill or unitary playground protective surface covering that meets the recommendations of the United States Consumer Product Safety Commission. The equipment shall be anchored firmly and be in good repair.

* * * * *

(g) Children's equipment and toys described as hazardous by the United States Consumer Product Safety Commission shall not be used by children at the facility and shall not be on the premises at the facility.

* * * * *

§ 3280.108. Furniture.

(a) Furniture shall be durable, safe, easily cleaned and appropriate for the child's size, age and [disability] special needs.

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PROGRAM

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§ 3280.113. Supervision of children.

(a) Children on the facility premises and on facility excursions off the premises shall be supervised by a staff person at all times. Outdoor play space used by the facility is considered part of the facility premises.

(1) Each staff person shall be assigned the responsibility for supervision of specific children. The staff person shall know the names and whereabouts of the children in his assigned group. The staff person shall be physically present with the children in his group on the facility premises and on facility excursions off the facility premises.

(2) The requirement for supervision on and off the facility premises includes compliance with the staff:child ratio requirements in §§ 3280.51--3280.54.

* * * * *

(e) A facility person may not restrain a child by using bonds, ties or straps to restrict a child's movement or by enclosing the child in a confined space, closet or locked room. The prohibition against restraining a child does not apply to the use of adaptive equipment prescribed for a child with special needs.

* * * * *

§ 3280.115. Water activity.

(a) *Swimming.*

* * * * *

(3) An aboveground swimming pool which is not in use shall be made inaccessible to children in accordance with the swimming pool barrier guidelines of the United States Consumer Product Safety Commission.

* * * * *

§ 3280.117. Release of children.

(a) A child shall be released only to the child's parent or to an individual designated in writing by the enrolling parent. A child shall be released to either parent unless a court order on file at the facility states otherwise.

* * * * *

§3280.119 Program Plan

(a) The primary staff person shall develop a program plan specific to the child no later than 60 days following the child's first day of attendance at the facility. The program plan for a child with special needs shall incorporate the Individualized Education Program, Individualized Family Service Plan or formal behavioral plan if that plan is reviewed and implemented within the 60 days.

(b) The child's program plan shall include the following:

(1) A documented observation of the child's development.

(2) If applicable, identification of the child's unique needs and recommendations, plans or referrals as appropriate. The director shall inform the parent of the possible special needs of the child and provide information to the parent regarding resources for referral and assistance.

(3) A plan to facilitate the child's continued development and participation in the daily activities described in § 3280.111 (relating to daily activities), including involvement of a specialist who may be helping to support the child and family.

(c) The primary staff person shall review the child's program plan according to the following schedule:

(1) For an infant, toddler or preschool child, the plan shall be reviewed at least every 6 months.

(2) For a school-age child, the plan shall be reviewed at least every 12 months.

(3) For a child with special needs, the program plan shall also be reviewed according to the schedule specified in the Individualized Education Program, Individualized Family Service Plan or formal behavioral plan.

(d) The primary staff person shall revise the plan as needed to meet the needs of the child at each review.

(e) The primary staff person shall provide to the following individuals an opportunity to provide input into the development of the child's initial program plan and each review of the child's program plan:

(1) The child's parent.

(2) Other staff persons who supervise the child at the facility.

(3) Other individuals who provide early intervention or special education services, treatment, therapy or other specialized services to the child.

(4) The child if the child is a school-age child.

(f) The primary staff person shall date and sign the child's initial program plan and each reviewed or updated program plan. The child's parent shall be given an opportunity to sign each program plan and will receive a copy of each dated and signed program plan.

(g) A signed and dated copy of the child's initial program plan and each reviewed or updated program plan shall be placed in the child's facility record.

§ 3280.120. Infant sleep position.

Infants shall be placed on their backs to sleep unless a there is a medical reason an infant should not sleep in this position. The medical reason shall be documented in a statement signed by a physician, physician's assistant or CRNP and placed in the child's record at the facility.

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PROCEDURES FOR ADMISSION

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§ 3280.122. Admission interview.

A child shall be interviewed or observed by the operator and, when possible, shall have the opportunity to visit the facility prior to being admitted for care. The child shall be told as much as he can understand about the service being planned. If the parent indicates that the child has [a disability or handicapping condition] special needs, the operator shall discuss the condition with the parent, refer to § 3280.4 (relating to definitions), and

comply with §§ 3280.16, 3280.124 and 3280.131 (relating to service to a child with [a disability] special needs; emergency contact information; and health [assessment] information).

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§ 3280.124. Emergency contact information.

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(b) Emergency contact information shall include the following:

* * * * *

(5) Information on the [disability of the child] child's special needs, as specified by the child's parent[or], physician, physician's assistant or CRNP, which is needed in an emergency situation.

* * * * *

CHILD HEALTH

§ 3280.131. Health [assessment] information.

(a) [An] The operator shall require the parent of an enrolled child, including a child, a foster child and a relative of an operator or a facility person, [shall have an age-appropriate] to provide an initial health report [on record at the facility] no later than 60 days following [enrollment] the first day of attendance at the facility.

(1) The initial health report for an infant shall be dated no more than 3 months prior to the first day of attendance at the facility.

(2) The initial health report for a young toddler shall be dated no more than 6 months prior to the first day of attendance at the facility.

(3) The initial health report for an older toddler or preschool child shall be dated no more than 1 year prior to the first day of attendance at the facility.

(4) The initial health report for a school-age child shall be dated in accordance with the requirements for medical examinations for school attendance at 28 Pa. Code § 23.2 (relating to medical examinations).

(b) [An age-appropriate health assessment shall be conducted according to the recommended schedule for routine health supervision as referenced in the most current edition of the American Academy of Pediatrics (AAP) *Guidelines for Health Supervision*. This publication can be obtained from the American Academy of Pediatrics, 141 Northwest Point Boulevard, Post Office Box 927, Elk Grove Village, Illinois 60007.] The operator shall require the parent to provide an updated health report in accordance with the following schedules:

(1) At least every 6 months for an infant or young toddler.

(2) At least every 12 months for an older toddler or preschool child.

(c) A health [assessment shall be conducted and a] report shall be written and signed by a physician, physician's assistant or a CRNP. The signature shall include the individual's professional title.

(d) The health report shall include the following information:

(1) A review of the child's [previous] health history.

(2) [The results of a physical examination] A list of the child's allergies.

(3) [An assessment of the child's growth patterns] A list of the child's current medication and the reason for the medication.

(4) [The physician's or CRNP's] An assessment of [a disability or a] an acute or chronic health problem or special needs and recommendations for treatment or services.

(5) A review of the child's immunized status according to recommendations of the [AAP. The Department will provide the AAP guidelines upon request.] ACIP.

* * * * *

(7) [A review of age-appropriate screenings according to the standards of the AAP.] A statement that the child is able to participate in child care and appears to be free from contagious or communicable disease.

(e) [The operator shall comply with the Department of Health (DOH) regulation at 28 Pa. Code § 27.121a (Reserved) and shall implement dismissal policies in accordance with that section. The Department will provide the DOH regulation upon request.] The facility may not accept or retain an infant 2 months of age or older, a toddler or a preschool child at the facility for more than 60 days following the first day of attendance at the facility unless the parent provides written verification from a physician, physician's assistant, CRNP, the Department of Health or a local health department of the dates (month, day and year) the child was administered immunizations in accordance with the recommendations of the ACIP.

(1) The facility shall require the parent to provide updated written verification from a physician, physician's assistant, CRNP, the Department of Health or a local health department of ongoing vaccines administered to an infant, toddler or preschool child in accordance with the schedule recommended by the ACIP.

(2) Exemption from immunization shall be documented as follows:

(i) Exemption from immunization for religious belief or strong personal objection equated to a religious belief shall be documented by a written, signed and dated statement from the child's parent or guardian. The statement shall be kept in the child's record.

(ii) Exemption from immunization for reasons of medical need shall be documented by a written, signed and dated statement from the child's physician, physician's assistant or CRNP. The statement shall be kept in the child's record.

(3) The facility shall implement dismissal policies in accordance with the Department of Health regulation at 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings).

(4) The facility shall comply with the annual immunization reporting requirements in accordance with the Department of Health regulation at 28 Pa. Code § 27.77.

* * * * *

§ 3280.133. Child medication and special diets.

The operator shall make reasonable accommodation in accordance with the Americans with Disabilities Act to facilitate administration of medication or a special diet prescribed by a physician, physician's assistant or CRNP for a child with special needs. Facility persons are not required to administer [child] medication or special diets which are requested or required by a parent, a physician, a physician's assistant or a CRNP to a child who does not have special needs. [If child] When medication or special diets are administered, the following requirements apply:

* * * * *

[(9) A staff person who administers Syrup of Ipecac shall request case-specific instruction for administration from a poison control center or a physician. The staff person shall record in the child's file the date and time instruction was received, the name of the individual who issued the instruction, the content of the information and the time, date and amount of Syrup of Ipecac administered.]

* * * * *

§ 3280.135. Diapering requirements.

(a) When children are diapered, the facility shall use disposable diapers, a diaper service or arrange with the parent to provide a daily diaper supply.

* * * * *

(3) If disposable diapers are provided by a facility or a parent, a soiled diaper shall be discarded [in one of the following ways. The diaper shall be:

(i) immediately placed] by immediately placing the diaper into a [lined outdoor trash container.

(ii) Placed in an individual, tied bag and discarded indoors until outdoor disposal is possible] plastic-lined, hands-free covered can.

* * * * *

(e) A staff person shall check a child's diaper at least every 2 hours and whenever the child indicates discomfort or exhibits behavior that suggests a soiled diaper. A staff person shall change a child's diaper when the diaper is soiled.

* * * * *

ADULT HEALTH

§ 3280.151. Health assessment.

(a) A facility person providing direct care who comes into contact with the children or who works with food preparation shall have a health assessment conducted within [3] 12 months prior to providing initial service in a child care setting and every [year] 24 months thereafter. A health assessment is valid for [12] 24 months following the date of signature, if the person does not contract a communicable disease or develop a medical problem.

(b) A health assessment shall be conducted and a report shall be written and signed by a physician, physician's assistant or CRNP. The signature shall include the individual's professional title.

(c) The health assessment shall include the following:

* * * * *

(2) Tuberculosis screening by the Mantoux method at initial employment [and subsequently at least once every 2 years]. Subsequent tuberculosis screening is not required unless directed by a physician, physician's assistant, CRNP, Department of Health or local health department.

* * * * *

TRANSPORTATION

§ 3280.175. Safety restraints.

(a) A child [4] seven years of age or younger shall be transported in accordance with the requirements for parents and guardians as stated in 75 Pa.C.S. § 4581 (relating to restraint systems).

* * * * *

§ 3280.176. Vehicles.

* * * * *

(f) The facility may not transport a child in an 11-15 passenger van in accordance with the requirements of 67 Pa. Code Chapter 171 (relating to school buses and school vehicles).

* * * * *

CHILD RECORDS

* * * * *

§ 3280.182. Content of records.

A child's record shall contain the following information:

- (1) Initial and subsequent health [assessments] reports.

* * * * *

[NIGHT CARE]

§ 3280.201. (Reserved).

§ 3280.202. (Reserved).

§ 3280.203. (Reserved).

§ 3280.204. (Reserved).

§ 3280.205. (Reserved).

§ 3280.206. (Reserved).

§ 3280.207. (Reserved).

§ 3280.208. (Reserved).

§ 3280.209. (Reserved).

* * * * *

SPECIAL EXCEPTIONS

* * * * *

§ 3280.215. Play surfaces.

(a) A facility certified by the Department as of [April 4, 1992, is exempt from the requirement to provide an impact-absorbing ground cover, as described at § 3280.102(c) (relating to condition of play equipment)] date of final publication has until two years from date of publication to comply with the protective surface requirement described in § 3280.102(c) (relating to condition of play equipment).

(b) A facility certified by the Department as of [April 4, 1992,] date of final publication which has a play surface not in compliance with § 3280.102(e) [is exempt from the requirement unless the surface is replaced] has until two years from date of publication to comply requirement described in § 3280.102(e).

* * * * *

SCHOOL-AGE PROGRAMS

§ 3280.221. Requirements specific to school-age programs.

* * * * *

(b) A facility or a space in a facility in which care is provided exclusively to school-age children shall comply only with the following:

* * * * *

(2) *General requirements.* Sections 3280.11—[3280.25] 3280.26 (relating to general requirements).

* * * * *

(7) *Equipment.* Sections 3280.101, 3280.102(a)—(c) and (g), 3280.107 and 3280.108.

(8) *Program*. Sections 3280.111, 3280.113, 3280.115(a) and (b), 3280.116 [and] , 3280.118 and 3280.119.

* * * * *

(10) *Child health*. Sections 3280.131—3280.134(a) and 3280.136—3280.138. An equivalent [age-appropriate] health [assessment] report completed by a school is acceptable as documentation of child health for a school-age child.

* * * * *

(17) Staff persons shall have immediate access to a working telephone on the facility premises.

CHAPTER 3290. FAMILY CHILD DAY CARE HOMES

GENERAL PROVISIONS

* * * * *

§ 3290.4. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

ACIP—The Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, United States Department of Health and Human Services.

* * * * *

[Age-appropriate child health assessment—A written report assessing a child's health status. The report is signed by a physician or a nurse practitioner and includes the child's health history, the child's physical examination and a plan for treatment of health problems identified in the health assessment.]

Age level—The grouping category appropriate for the child's age.

- (i) *Infant*—A child from birth [through 12 months] to one year of age.
- (ii) *Young toddler*—A child from [13 through 24 months] one to two years of age.
- (iii) *Older toddler*—A child from [25 through 36 months] two to three years of age.
- (iv) *Preschool child*—A child from [37 months of age through] three years of age to the date the child enters [first grade of] kindergarten in a public or private school system.
- (v) *Young school-age child*—A child [from the first grade through the 3rd] who attends kindergarten to the date the child enters the 4th grade of a public or private school system.
- (vi) *Older school-age child*—A child [from] who attends the 4th grade of a public or private school system through 15 years of age.

* * * * *

Child with [a disability] special needs— A child who [does not function according to age-appropriate expectations in the areas of emotional, cognitive, communicative, perceptual-motor, physical or social development and requires special adaptations, program adjustments and related services on a regular basis to function in an adaptive manner. Examples of a child with a disability include a child who has:

- (i) A developmental delay.
- (ii) A neurologically-based condition, such as mental retardation, cerebral palsy, autism, epilepsy or other condition closely related to mental retardation or requiring treatment similar to that required by mentally retarded children.
- (iii) Mental retardation associated with sociocultural or psychosocial disadvantage.

(iv) A genetic disorder or physiological condition usually associated with mental retardation.

(v) Problems of social or emotional adjustment.

(vi) A physical disability, such as visual impairment, hearing impairment, speech or language impairment, or a physical handicap.] has one or more of the following:

(i) A disability or developmental delay identified on an Individualized Education Program or an Individualized Family Service Plan.

(ii) A formal behavioral plan that has been determined by a licensed physician, psychiatrist, or licensed psychologist.

(iii) A chronic health condition diagnosed by a licensed physician, physician's assistant or CRNP that requires health and related services of a type or amount beyond that required by children generally.

* * * * *

Legal entity—A person, [society,] corporation [, governing authority] or partnership that is legally responsible for the administration of [one] the facility [or several facilities, or one type of facility or several types of facilities].

* * * * *

Inspection summary – A document prepared by an agent of the Department describing each regulatory noncompliance item confirmed as a result of a facility inspection.

* * * * *

GENERAL REQUIREMENTS

§ 3290.11. Application for and issuance of a certificate of registration.

* * * * *

(b) [An individual] A legal entity desiring to apply for a certificate of registration shall request application documents from the appropriate regional office of the Department.

(c) A legal entity or a representative of the legal entity shall participate in a pre-certification orientation training provided by the Department within 12 months prior to issuance of a certificate of compliance. The pre-certification orientation does not count toward the biennial minimum of 12 clock hours of child care training required at § 3290.31(f) (relating to age and training).

[c] (d) Prior to providing child day care at any one time to more than three children unrelated to the operator, [an individual] the legal entity shall apply for and shall be issued a certificate of registration.

[(d) An individual] (e) A legal entity seeking to operate a facility shall apply to the appropriate regional office on a form approved by the Department. The [applicant] legal entity shall be required to submit information specified by the registration law and this chapter.

[(e)] (f) The [applicant] legal entity applying for a certificate of registration shall certify, in writing, compliance with the registration law and this chapter.

[(f)] (g) Following review of the application and related documents, the Department will approve or deny the issuance of a certificate of registration.

[(g)] (h) A certificate of registration will be issued for a period not to exceed 24 months following date of issue.

(1) A certificate of registration is issued to a specific [operator] legal entity at a specific location. A certificate of registration is not transferrable.

(2) A certificate of registration is void without notice if there is a change in the legal entity [, the operator] or the location of the facility.

(3) If a facility is to be operated at a new location or by a new legal entity [or operator], the [operator] legal entity shall advise the appropriate regional office at least 30 days in advance of the change.

[(h)] (i) The facility is subject to inspections as follows:

* * * * *

[(i)] (j) If a certificate of registration lapses, the [applicant] legal entity shall file an original application and the supplemental information required by the Department.

[(j)] (k) Prior to expiration of a current certificate of registration, the [operator] legal entity will receive notice from the Department regarding renewal of the certificate.

[(k) An operator] (l) A legal entity desiring to renew a certificate of registration shall submit a correct, completed application and other required materials to the appropriate regional office of the Department prior to the expiration of the current certificate of registration.

[(l)] (m) Regarding child abuse and criminal history clearances related to the CPSL, the following apply:

* * * * *

[(m)] (n) An operator whose facility's certificate of registration is current as of [April 4, 1992,] effective date of regulation will not be required to certify compliance with this chapter until renewal of the certificate of registration or until the Department inspects in response to an alleged regulatory violation, whichever occurs first.

* * * * *

§ 3290.14. [Firesafety approval] Certificate of occupancy.

A certificate of registration will not be granted by the Department until the [operator] legal entity provides a certificate of occupancy as proof of compliance with the applicable requirements at 34 Pa. Code [Chapter 56 (relating to division C-3 small group habitation) or local authorities in Scranton, Pittsburgh or Philadelphia] § 403.23 (relating to child day care facilities).

* * * * *

§ 3290.15. Service to a child with [a disability] special needs.

[A facility serving a child with a disability as defined in § 3290.4 (relating to definitions) shall also comply with applicable sections of Chapter 3300 (relating to specialized day care service for children with disabilities).]

(a) The operator shall make reasonable accommodation to include a child with special needs in accordance with the Americans with Disabilities Act (ADA).

(b) The operator shall permit an adult individual who provides specialized services to a child with special needs to provide those services on the facility premises as specified in the child's Individualized Education Program, Individualized Family Service Plan, formal behavioral plan or program plan as defined in § 3290.118 (relating to program plan).

(c) The operator is responsible to make staff persons aware of community resources for the family of a child with possible special needs.

(1) When the operator believes a child may need an assessment due to developmental, behavioral or health concerns, the operator shall inform the child's parent of the concern and shall provide information to the parent regarding resources for referral and assistance.

(2) When a staff person believes a child may need an assessment due to developmental, behavioral or health concerns, the staff person shall inform the operator. The operator shall inform the child's parent of the staff person's concern and shall provide information to the parent regarding resources for referral and assistance.

* * * * *

§ 3290.21. Departmental access.

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(c) An agent of the Department will inspect compliance with this chapter in all areas of the facility premises that are accessible to children.

§ 3290.22. Availability of certificate of compliance and applicable regulations.

* * * * *

(c) The operator shall post a copy of each inspection summary issued by the Department next to the facility's certificate of registration in a conspicuous location used by parents. The inspection summary shall remain posted until an agent of the Department verifies that each noncompliance item noted on the inspection summary has been corrected.

* * * * *

§ 3290.24 Emergency plan.

- (a) The facility shall have an emergency plan that provides for:
- (1) Shelter of children during an emergency.
 - (2) Evacuation of children from the facility.
 - (3) A method for facility persons to contact parents as soon as reasonably possible when an emergency situation arises.

(4) A method for facility persons to inform parents that the emergency has ended and to provide instruction as to how parents can safely be reunited with their children.

(b) The operator shall review the emergency plan at least annually and update the plan as needed. Each review and update of the emergency plan shall be documented in writing and kept on file at the facility.

(c) Each facility person shall receive training regarding the emergency plan at the time of initial employment, on an annual basis and at the time of each plan update. The date of each training and the name of each facility person who received the training shall be documented in writing and kept on file at the facility.

(d) The emergency plan shall be posted in the facility at a conspicuous location.

(e) The operator shall provide to the parent of each enrolled child a letter explaining the emergency procedures described in subsection (a). The operator shall also provide to the parent of each enrolled child a letter explaining any subsequent update to the plan.

(f) The operator shall send a copy of the emergency plan and subsequent plan to the county emergency management agency.

FACILITY PERSONS

§ 3290.31. Age and training.

(a) The operator shall have the following qualifications:

(1) Be 18 years of age or older.

(2) Have a high school diploma or a general educational development certificate and submit proof to the appropriate regional office of the Department at the time of registration renewal.

* * * * *

(e) A Child Development Associate (CDA) credential or a Certified Childcare Professional (CCP) credential is equivalent to [one of the following:

(1) Fifteen] nine credit hours from an accredited college or university in early childhood education or child development and 1 year of experience with children.

[(2) Thirty credit hours from an accredited college or university in early childhood education or child development.]

* * * * *

§ 3290.68. Indoor temperature.

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(b) If the indoor temperature exceeds [85°] 82° F in a child care space, a means of mechanical air circulation shall be operating.

* * * * *

§ 3290.73. First-aid kit.

* * * * *

(c) A first-aid kit shall contain the following: soap, an assortment of adhesive bandages, sterile gauze pads, tweezers, tape, scissors and [Syrup of Ipecac] disposable, nonporous gloves. [Instructions for use of the Syrup of Ipecac shall be included as described at § 3290.133 (relating to child medication and special diets)].

(d) One first-aid kit shall accompany children and facility person on excursions from the facility. The first aid kit taken on an excursion shall contain a bottle of water in addition to the items specified at (c).

* * * * *

EQUIPMENT

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§ 3290.102. Condition of play equipment.

* * * * *

(c) Outdoor equipment that requires embedded mounting shall be mounted over [at least 6 inches of loose-filled impact-absorbing materials,] a loose-fill or unitary playground protective surface covering that meets the recommendations of the United States Consumer Product Safety Commission. The equipment shall be anchored firmly and be in good repair.

* * * * *

PROGRAM

* * * * *

§ 3270.113. Supervision of children.

(a) Children on the facility premises and on facility excursions off the premises shall be supervised by a staff person at all times. Outdoor play space used by the facility is considered part of the facility premises. The requirement for supervision on and off the facility premises includes compliance with the staff:child ratio requirements in § 3290.52 (relating to ratio requirements).

* * * * *

(e) A facility person may not restrain a child by using bonds, ties or straps to restrict a child's movement or by enclosing the child in a confined space, closet or locked room. The prohibition against restraining a child does not apply to the use of adaptive equipment prescribed for a child with special needs.

* * * * *

§ 3290.115. Water activity.

(a) *Swimming or Wading.*

* * * * *

(2) An aboveground swimming pool which is not in use shall be made inaccessible to children in accordance with the swimming pool barrier guidelines of the United States Consumer Product Safety Commission.

* * * * *

§ 3290.116. Release of children.

(a) A child shall be released from care only to the child's parent or to an individual designated in writing by the enrolling parent. A child shall be released to either parent unless a court order on file at the facility states otherwise.

* * * * *

§3290.118 Program plan.

(a) The operator shall develop a program plan specific to the child no later than 60 days following the child's first day of attendance at the facility. The program plan for a child with special needs shall incorporate the Individualized Education Program, Individualized Family Service Plan or formal behavioral plan if that plan is reviewed and implemented within the 60 days.

(b) The child's program plan shall include the following:

(1) A documented observation of the child's development.

(2) If applicable, identification of the child's unique needs and recommendations, plans or referrals as appropriate. The operator shall inform the parent of the possible

special needs of the child and provide information to the parent regarding resources for referral and assistance.

(3) A plan to facilitate the child's continued development and participation in the daily activities described in § 3290.111 (relating to daily activities) including involvement of specialist who may be helping to support the child and family.

(c) The operator shall review the child's program plan according to the following schedule:

(1) For an infant, toddler or preschool child, the plan shall be reviewed at least every 6 months.

(2) For a school-age child, the plan shall be reviewed at least every 12 months.

(3) For a child with special needs, the program plan shall also be reviewed according to the schedule specified in the Individualized Education Program, Individualized Family Service Plan or formal behavioral plan.

(d) The operator shall revise the plan as needed to meet the needs of the child at each review.

(e) The operator shall provide to the following individuals an opportunity to provide input into the development of the child's initial program plan and each review of the child's program plan:

(1) The child's parent.

(2) Other staff persons who supervise the child at the facility.

(3) Other individuals who provide early intervention or special education services, treatment, therapy or other specialized services to the child.

(4) The child if the child is a school-age child.

(f) The operator shall date and sign the child's initial program plan and each reviewed or updated program plan. The child's parent shall be given an opportunity to sign each program plan and will receive a copy of each dated and signed program plan.

(g) A signed and dated copy of the child's initial program plan and each reviewed or updated program plan shall be placed in the child's facility record.

§ 3290.119. Infant sleep position.

Infants shall be placed on their backs to sleep unless there is a medical reason an infant should not sleep in this position. The medical reason shall be documented in a statement signed by a physician, physician's assistant or CRNP and placed in the child's record at the facility.

* * * * *

PROCEDURES FOR ADMISSION

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§ 3290.122. Admission interview.

A child shall be interviewed or observed by the operator and when possible shall have the opportunity to visit the facility prior to being admitted for care. The child shall be told as much about the service being planned as the child can understand. If the parent indicates that the child has a [disability or handicapping condition] special need, the operator shall discuss the condition with the parent, refer to § 3290.4 (relating to definitions), and comply with §§ 3290.15, 3290.124 and 3290.131 (relating to service to a child with [a disability] special needs; emergency contact information; and health [assessment] information).

* * * * *

§ 3290.124. Emergency contact information.

(b) Emergency contact information shall include the following:

(5) Information on the [disability of the child] child's special needs, as specified by the child's parent [or], physician, physician's assistant or CRNP, which is needed in an emergency situation.

CHILD HEALTH

§ 3290.131. Health [assessment] information.

(a) [An] The operator shall require the parent of an enrolled child [shall have an age-appropriate] to provide an initial health report [on record at the facility] no later than 60 days following [enrollment] the first day of attendance at the facility.

(1) The initial health report for an infant shall be dated no more than 3 months prior to the first day of attendance at the facility.

(2) The initial health report for a young toddler shall be dated no more than 6 months prior to the first day of attendance at the facility.

(3) The initial health report for an older toddler or preschool child shall be dated no more than 1 year prior to the first day of attendance at the facility.

(4) The initial health report for a school-age child shall be dated in accordance with the requirements for medical examinations for school attendance at 28 Pa. Code § 23.2 (relating to medical examinations).

(b) [An age-appropriate health assessment shall be conducted according to the recommended schedule for routine health supervision as referenced in the most current edition of the American Academy of Pediatrics (AAP) *Report of the Committee on Infectious Diseases*. This publication can be obtained from the American Academy of Pediatrics, 141 Northwest Point Boulevard, Post Office Box 927, Elk Grove Village, Illinois 60007.] The operator shall require the parent to provide an updated health report in accordance with the following schedules:

(1) At least every 6 months for an infant or young toddler.

(2) At least every 12 months for an older toddler or preschool child.

(c) A health [assessment shall be conducted and a] report shall be written and signed by a physician, physician's assistant or a CRNP. The signature shall include the individual's professional title.

(d) The health report shall include the following information:

(1) A review of the child's [previous] health history.

(2) [The results of a physical examination] A list of the child's allergies.

(3) [An assessment of the child's growth patterns] A list of the child's current medication and the reason for the medication.

(4) [The physician's CRNP's] An assessment of [a disability or a] an acute or chronic health problem or special needs and recommendations for treatment or services.

(5) A review of the child's immunized status according to recommendations of the [AAP. The Department will provide the AAP guidelines upon request.] ACIP.

* * * * *

(7) [A review of age-appropriate screenings according to the standards of the AAP.]

A statement that the child is able to participate in child care and appears to be free from contagious or communicable disease.

(e) [The operator shall comply with the Department of Health (DOH) regulation at 28 Pa. Code § 27.121a (Reserved) and shall implement dismissal policies in accordance with that section. The Department will provide the Department of Health regulation upon request.] The facility may not accept or retain an infant 2 months of age or older, a toddler or a preschool child at the facility for more than 60 days following the first day of attendance at the facility unless the parent provides written verification from a physician, physician's assistant, CRNP, the Department of Health or a local health department of the dates (month, day and year) the child was administered immunizations in accordance with the recommendations of the ACIP.

(1) The facility shall require the parent to provide updated written verification from a physician, CRNP, the Department of Health or a local health department of ongoing vaccines administered to an infant, toddler or preschool child in accordance with the schedule recommended by the ACIP.

(2) Exemption from immunization shall be documented as follows:

(i) Exemption from immunization for religious belief or strong personal objection equated to a religious belief shall be documented by a written, signed and dated statement from the child's parent or guardian. The statement shall be kept in the child's record.

(ii) Exemption from immunization for reasons of medical need shall be documented by a written, signed and dated statement from the child's physician, physician's assistant or CRNP. The statement shall be kept in the child's record.

(3) The facility shall implement dismissal policies in accordance with the Department of Health regulation at 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings).

(4) The facility shall comply with the annual immunization reporting requirements in accordance with the Department of Health regulation at 28 Pa. Code § 27.77.

* * * * *

§ 3290.133. Child medication and special diets.

The operator shall make reasonable accommodation in accordance with the Americans with Disabilities Act to facilitate administration of medication or a special diet prescribed by a physician, physician's assistant or CRNP for a child with special needs. Facility persons are not required to administer [child] medication or special diets which are requested or required by a parent, a physician, a physician's assistant or a CRNP to a child who does not have special needs. [If child] When medication or special diets are administered, the following requirements apply:

* * * * *

[(9) A staff person who administers Syrup of Ipecac shall request case-specific instruction for administration from a poison control center or a physician. The staff person shall record in the child's file the date and time instruction was received, the name of the individual who issued the instruction, the content of the information and the time, date and amount of Syrup of Ipecac administered.]

* * * * *

§ 3290.135. Diapering requirements.

(a) When children are diapered, the facility shall use disposable diapers, a diaper service or arrange with the parent to provide a daily diaper supply.

* * * * *

(3) If disposable diapers are provided by a facility or a parent, a soiled diaper shall be discarded [in one of the following ways. The diaper shall be:

(i) immediately placed] by immediately placing the diaper into a [lined outdoor trash container.

(ii) Placed in an individual, tied bag and discarded indoors until outdoor disposal is possible] plastic-lined, hands-free covered can.

* * * * *

(e) A staff person shall check a child's diaper at least every 2 hours and whenever the child indicates discomfort or exhibits behavior that suggests a soiled diaper. A staff person shall change a child's diaper when the diaper is soiled.

* * * * *

ADULT HEALTH

§ 3290.151. Health assessment.

(a) A facility person [shall provide the Department with a satisfactory initial health assessment. A health assessment shall be submitted] providing direct care who comes into contact with the children or who works with food preparation shall have a health assessment on file at the facility.

(1) The operator shall submit a health assessment to the Department prior to issuance of an initial or renewal certificate of registration.

(2) A health assessment is valid for 24 months following the date of signature, if the person does not contract a communicable disease or develop a medical problem.

(b) A health assessment shall be conducted and a report shall be written and signed by a physician, physician's assistant or CRNP. The signature shall include the individual's professional title.

(c) The health assessment shall include the following:

* * * * *

(2) Tuberculosis screening by the Mantoux method at initial employment [and subsequently at least once every 2 years]. Subsequent tuberculosis screening is not required unless directed by a physician, CRNP, the Department of Health or a local health department.

* * * * *

TRANSPORTATION

§ 3290.173. Safety restraints.

(a) A child [4] seven years of age or younger shall be transported in accordance with the requirements for parents and guardians as stated in 75 Pa.C.S. § 4581 (relating to restraint systems).

* * * * *

§ 3290.174. Vehicles.

* * * * *

(f) The facility may not transport a child in an 11-15 passenger van in accordance with the requirements of 67 Pa. Code Chapter 171 (relating to school buses and school vehicles).

CHILD RECORDS

§ 3290.182. Content of records.

A child's record shall contain the following information:

- (1) Initial and subsequent health [assessments] reports.

[NIGHT CARE]

§ 3290.201. (Reserved).

§ 3290.202. (Reserved).

§ 3290.203. (Reserved).

§ 3290.204. (Reserved).

§ 3290.205. (Reserved).

§ 3290.206. (Reserved).

§ 3290.207. (Reserved).

§ 3290.208. (Reserved).

SPECIAL EXCEPTIONS

§ 3290.212. Play surfaces.

(a) A facility registered by the Department as of [April 4, 1992, is exempted from the requirement to provide an impact-absorbing ground cover,] date of final publication has until two years from date of publication to comply with the protective surface requirement as described at § 3290.102(c) (relating to condition of play equipment).

(b) A facility registered by the Department as of [April 4, 1992] date of final publication which has a play surface or play surface not in compliance with § 3920.102(e) [is exempt from the requirement unless the surface is replaced] has until two years from date of publication to comply requirement described in § 3290.102(e).

§3290.213. Age and training.

The operator of a facility registered by the Department as of the effective date of this regulation is permanently qualified as an operator at the currently registered family day care home.

CHAPTER 3300. (Reserved)

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: #14-506
SUBJECT: Office of Child Development: Child Care Facilities
AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

- X Proposed Regulation
Final Regulation
Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
X 5/23/06	<u>Michelle C Whitmeyer</u>	HOUSE CHILDREN & YOUTH COMMITTEE
	<u>Allen 5-23-06</u>	
5/23/06	<u>H. Sattler</u>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
X	<u>MUPW</u>	
5/23/06	<u>Kathryn Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
5/23/06	<u>C. Lee Brown</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)