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INDEPENDENT REGULATORY
REVIEW COMMISSION



Pennsylvania
Partnerships for Children

Joan L. Benso, President and CEO

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JUN 30 2006

OFFICE OF CHILD DEVELOPMENT

Michael J. Breslin, Chair of the Board

20 North Market Square, Suite 300, Harrisburg, PA 17101-1632

June 29, 2006

Ms. Jennifer Lau
Bureau of Certification Services
Office of Child Development
Department of Public Welfare
1401 North Seventh Street
P.O. Box 2675
Harrisburg, PA 17105

RE: Reference Regulation No. 14-506

Dear Ms. Lau:

On behalf of Pennsylvania Partnerships for Children (PPC), please accept our comments on the proposed changes to the child care facility regulations in Chapters 3270, 3280, 3290, and 3300. We commend the Department for its efforts to update the regulations to reflect current research, practice, and law as it pertains to the Commonwealth's children in child care settings. PPC participated in the development of the proposed regulations. We welcome the opportunity to provide additional input and comment. While we refer specifically to Chapter 3270, we ask that the Department also note these comments as applicable to similar sections in Chapters 3280 and 3290.

◆ **Section 3270.4. Definitions**

Age Level

For PPC, the most significant change in "Age Levels" is redefining a child in kindergarten as a "young school-age child" as opposed to a "preschool child". PPC supports this change and believes that this will increase opportunities for kindergarten children to participate in school-age child care programs, especially school-based, school-age care programs. Under current regulations, a program wishing to serve kindergarten children would be required to comply with the entire set of certification regulations, including the facility requirements, from which school-based programs serving children first grade and above are exempt. This change also affects staff to child ratios, the qualifications of staff, and in some cases, the overall supervision requirements for the program. PPC believes that the basic health and safety requirements for kindergarten children are adequate and access to regulated care for kindergarten children will increase under the proposed regulations.

◆ **Section 3270.11. Application for and issuance of a certificate of compliance.**

PPC agrees requiring an orientation to the child care regulations is a reasonable request of both new service providers and those whom have not attended an orientation session in the previous 12 months. This should help alleviate any confusion and provide clarification to questions regarding the certification requirements and expectations. For existing providers, seeking to open additional

facilities, this will help insure that they are aware of the most recent changes or clarifications of the certification or registration requirements.

Additional recommendation:

We encourage the Department to develop an additional training session, refresher course, or Level II orientation to the child care regulations for new and existing directors and program managers. This will provide an opportunity to review certification requirements and statements of policy, discuss expectations, and answer questions.

◆ **Section 3270.17. Service to a child with special needs.**

All of Pennsylvania's children are entitled to high quality early education and care. PPC believes that partnerships between programs and families affect the most promising outcomes for children. This partnership expands for children with special needs to those individuals and organizations that provide specialized support services to the child. Proposed changes to this section include granting access to the child care setting to those individuals and organizations that provide specialized support services to the child. We see this as an opportunity for the child's primary program caregiver and the program itself to become more informed about how to address a child's special needs. PPC supports the changes to this section of the regulations.

Additional recommendations:

The Department must continue to build bridges between the child care system and the early intervention system. We encourage the Department to make available the resources, technical assistance, and training to increase providers' experience and comfort in meeting the special needs of all children. We also encourage the Department to make available through its Regional Key Network opportunities to connect child care providers with early intervention specialists to increase understanding of systems, supports, and to forge partnerships between groups and individuals.

◆ **Section 3270.31. Age and training.**

Earning a Child Development Associate Credential is a milestone for many child care staff. The achievement recognizes that the recipient has demonstrated competence in meeting nationally recognized competency goals. Efforts are underway in Pennsylvania to construct an early education and care professional development system that would result in a seamless continuum from community based training to higher education. PPC agrees with the Department's changes to reduce the CDA Credential from the equivalent of 15 credit hours to 9 credit hours. This will align the regulations with articulation agreements currently in place and those currently in development with Pennsylvania's Community Colleges.

◆ **Section 3290.31. Age and training.**

The Department proposes to require Family Day Care Home (FDCH) providers to possess, at a minimum, a High School Diploma or General Educational Development Certificate (G.E.D.). This aligns with the qualification requirement that staff in centers and group homes who may be left alone with children have a minimum of a High School diploma or GED. PPC agrees that by increasing this requirement, the Department will help insure a minimum level of literacy to implement an educational program for children and run a business.

◆ **Section 32970.102. Condition of play equipment.**

The Department proposes a number of changes that directly affect the health and safety of children in the care of the Commonwealth's child care programs. PPC agrees that current requirements do not take into account the height of the apparatus in determining the playground surface fill depth. We support the Department's use of the United States Consumer Product Safety Commission (CPSC) as an authority in this area. In addition, it is only common sense that equipment and toys described as hazardous should not be used by children in facilities and be removed from the premises.

Additional recommendations:

PPC urges the Department to use not only its regulatory and monitoring system to inform providers on how to access alerts and warnings from the CPSC, but also distribute information through its quality system (PA Key Network) and Child Care Information Systems (CCIS), both of which have regular contact with the regulated provider community.

◆ **3270.119. Program plan.**

PPC agrees that every child in care would benefit from an individualized program plan that would identify their unique needs and support their development. PPC also agrees that formal observation of the child would be an important tool in developing the plan. PPC also agrees that the child's parent, other staff persons at the facility who work with the child on a regular basis, individuals who provide specialized support services, and the child his/herself, if he/she is of school age should provide input into the plan. The proposed changes do raise some questions and challenges for the Department in monitoring this requirement, for programs that must implement it, and for families who may be impacted by it.

This proposal attempts to incorporate elements of Chapter 3300 into 3270, 3280, and 3290, but Chapter 3300 is different in a number of ways. The Program Plan as described in Chapter 3300 begins with an assessment by a qualified individual or organization. The proposed requirements rely on a child's IEP, IFSP, or other plan, that parents may be reluctant to share with staff. The process described in this section also requires that the child's IEP, IFSP, or other plan be included and referred to multiple times in the development of their individual program plan. Will programs be cited for non-compliance if parents choose not to share the plan with the program? Is the Department asking staff to "diagnose" a special need?

In addition, best practices and the Department's own *Observation Training Series* used throughout the state emphasize that it takes multiple observation sessions to measure a child's development. We do not want to encourage staff to evaluate a child's development based on a single observation. The staff time and cost to conduct multiple observations may increase the Department's estimated fiscal impact.

In the Keystone STARS Quality Improvement System, individual child plans are a STAR 3 standard. At this point in their development, STAR 3 programs are demonstrating a considerable understanding of the elements of quality programming and planning. In addition, staff in STAR 3 programs are required to have significantly higher levels of education and training than required by basic certification. By attempting to collapse Chapter 3300 regulations, we lose the requirements that directors and group supervisors each have a minimum of 15 credit hours in specialized training serving children with special needs. In addition, Chapter 3300 specifies that staff annually receive a minimum of three hours of training on special needs.

Questions have also been raised over how the Department will measure compliance with this regulation. Will Department staff determine whether the plans are "individualized" and developmentally appropriate for individual children?

PPC would also encourage the Department to recognize the unique issues that may be faced by school-age child care programs to comply with this requirement:

- 1) School-age child care programs enroll large groups of children on an annual basis in August and September, giving them between November and December to complete observations, coordinate with parents, support services and children, as well as develop the individualized program plans.
- 2) Some school-age child care programs operate 2 hours before and up to 3 hours after school. They may even have different enrollments for their before and after school programs. This may increase the number of children requiring observations and could complicate coordination with parents, support services and children in the development individualized program plans.

- 3) School-Age Children may be in the program for as little as 15 minutes to as long as 3 hours, challenging the staff's ability to conduct a meaningful observation.
- 4) Most staff working in school-age child care programs work part-time, including the director and program staff. Fewer staff are on-site to conduct observations and complete program plans due to low staff to child ratios. Programs serving 45 or fewer children and operating 30 hours a week may not have staff on-site that meet the qualifications of group supervisor or director on a daily basis, making it even more challenging for them to complete the observations and implement the coordination needed to complete the plans in a timely manner.

The implementation of this section comes with many challenges. PPC encourages the Department to support providers in making the development of an individual program plan more than a cursory exercise, but a meaningful tool to support children's development. PPC encourages the Department to provide guidance, support and tools to assist programs in successfully implementing this new requirement. The Department should use its PA Key Network and Child Care Information Systems (CCIS), both of which have regular contact with the regulated provider community to increase the availability of professional development and technical assistance resources.

◆ **3270.120. Infant sleep position.**

Since the launch of the national "Back to Sleep" campaign by the American Academy of Pediatrics, the National Institute of Health, and others, the rate of Sudden Infant Death Syndrome has declined by 50%. While PPC supports the practice of putting infants on their back to sleep, we suggest that the regulation should be rewritten to reference the best practice currently recommended by the American Academy of Pediatrics and safeguard the need to change regulatory standards when best practice changes.

Additional recommendations:

The Department should work with the CCIS, PA Keys, and the Department of Health to continue to educate providers and families of the importance of this practice.

◆ **3270.131. Health (assessment) information.**

PPC believes that the Commonwealth has a vested interest in ensuring all children have regular access to affordable, high quality health care. At the same time, PPC believes that young children need access to high quality early education and care. PPC supports the Department's proposed changes in requirements relating to child health assessments and screenings and less stringent timelines for updated reports. This change does not endorse reduced health services for children, but does recognize that the challenges in the health care system are outside of the control of child care providers. PPC also supports the Department's decision to amend the regulations to support Department of Health regulations regarding immunization requirements, thereby providing consistency between child care settings.

Additional recommendations: PPC recommends that the Department monitor and review the changes in this regulation. PPC also recommends that the Department develop and make available a template for a health report to be written and signed by a physician, physician's assistant or a CRNP.

◆ **3270.241. Requirements specific to school-age programs**

PPC notes the changes to regulations that affect school-age children, specifically the section that amends the regulations to include the requirement that school-age programs have immediate access to a working phone. This acknowledges that the school-based, school-age program may not have access to a phone if the phone is located in an office that is locked after school hours or if the location of the phone is not located within the immediate vicinity of the space used by the school-age program. PPC supports this change in the regulations.

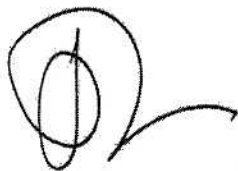
◆ **Chapter 3300**

PPC believes that all of Pennsylvania's children are entitled to high quality early education and care. By eliminating Chapter 3300, the proposed changes to the regulations will comply with the Americans with Disabilities Act and will now reflect inclusive, non-exclusionary practices. PPC recognizes the Department's efforts to embed elements of the Chapter 3300 regulations into the other chapters, but cautions that unless we are prepared to address other minimum requirements for staff education and training, doing so will be challenging.

Additional recommendations: By incorporating Chapter 3300 regulations into 3270, 3280, and 3290 we lose the specialized training requirements for all staff (3 hours of specialized training per year) and the educational requirements for directors and group supervisors (15 credit hours for both positions) specific to serving children with special needs. The Department should make available increased professional development opportunities for staff to support their work with children with special needs. Additionally, the Department should expand efforts to connect the child care professional development system coordinated by the PA Key Network to the professional and technical supports available through the early intervention system, especially for advanced level opportunities for directors and group supervisors.

Pennsylvania's child care regulations have not seen significant changes since 1992. PPC appreciates the opportunity to provide input and comment on this process at this time. We hope these comments are helpful.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joan L. Benso', with a stylized flourish extending to the right.

Joan L. Benso
President and CEO