

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.

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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 1 year of age.
- (ii) *Young toddler*--A child from [13 through 24 months] 1 to 2 years of age.
- (iii) *Older toddler*--A child from [25 through 36 months] 2 to 3 years of age.
- (iv) *Preschool child*--A child from [37 months of age through] 3 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 IEP, an Individualized Family Service Plan IFSP OR A SERVICE AGREEMENT.

(ii) A ~~formal~~ WRITTEN behavioral plan that has been determined by a licensed physician, psychiatrist, or licensed psychologist OR CERTIFIED BEHAVIOR ANALYST.

(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.

\* \* \* \* \*

*IEP* – INDIVIDUALIZED EDUCATION PROGRAM AS DEFINED IN 22 PA.CODE § 14.101 (RELATING TO DEFINITIONS) AND §§ 14.131-14.133 (RELATING TO IEP; ESY; AND BEHAVIOR SUPPORT).

*IFSP* – INDIVIDUALIZED FAMILY SERVICE PLAN AS DEFINED IN 55 PA.CODE §4226.5 (RELATING TO DEFINITIONS) AND §§ 4226.71-4226.77.

*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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*SERVICE AGREEMENT* – A SERVICE AGREEMENT AS DEFINED IN 22 PA.CODE § 15.2 AND §15.7 (RELATING TO DEFINITIONS; AND SERVICE AGREEMENT).

\* \* \* \* \*

### **GENERAL REQUIREMENTS**

**§ 3270.11. 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 precertification orientation does not count

toward the annual minimum of 6 hours of child care training required in § 3270.31(e) (relating to age and training).

(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) \* \* \*

[(d)] (e) \* \* \*

[(e)] (f) \* \* \*

[(f)] (g) \* \* \*

[(g)] (h) A facility whose certificate of compliance is current as of [April 4, 1992,] \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.*) 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] in 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 of 1990 (ADA) (42 U.S.C.A. §§ 12101–12213) APPLICABLE FEDERAL AND STATE LAWS REGARDING DISABILITY DISCRIMINATION.

(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 IEP, Individualized Family Service Plan IFSP, formal OR WRITTEN 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 HAS REASON TO 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 provide information to the parent regarding resources for referral and assistance.

(2) When a staff person HAS REASON TO 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 provide information to the parent regarding resources for referral and assistance.

**§ 3270.24. Departmental access.**

\* \* \* \* \*

(c) An agent of the Department will IS AUTHORIZED TO inspect for 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.

**§ 3270.27. Emergency plan.**

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

(1) Shelter of children during an emergency INCLUDING SHELTER IN PLACE AT THE FACILITY AND SHELTER AT LOCATIONS AWAY FROM THE FACILITY PREMISES.

(2) Evacuation of children from the facility BUILDING AND EVACUATION OF CHILDREN TO A LOCATION AWAY FROM THE FACILITY PREMISES. THE EVACUATION ROUTES AND EVACUATION PLANS TO EXIT THE BUILDING MAY BE THE SAME AS THOSE REQUIRED BY § 3270.94 (F) AND (G) (RELATING TO FIRE DRILLS).

(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 UPDATES to the county emergency management agency.

## **FACILITY PERSONS**

### **§ 3270.31. Age and training.**

\* \* \* \* \*

(d) CHILD CARE PROFESSIONAL CREDENTIALS ARE EQUIVALENT TO THE STAFF QUALIFICATIONS LISTED BELOW:

(1) 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] 9 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.]

(2) A PENNSYLVANIA SCHOOL-AGE PROFESSIONAL CREDENTIAL IS EQUIVALENT TO 9 CREDIT HOURS FROM AN ACCREDITED COLLEGE OR UNIVERSITY IN ELEMENTARY EDUCATION OR CHILD DEVELOPMENT AND 1 YEAR OF EXPERIENCE WITH CHILDREN.

\* \* \* \* \*

### STAFF-CHILD RATIO

#### § 3270.52. Mixed age level.

When children are grouped in mixed age levels, [the following child group sizes and ratios of staff persons apply:] the age of the youngest child in the group determines the staff:child ratio and maximum group size in accordance with the requirements in § 3270.51 (relating to similar age level).

[Mixed Age Levels	Maximum			
	Staff	Children	Group Size*	Total Number of Staff Required for the Maximum Group Size
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 school-age	1	10	20	2

\*No more than 50% of each group may be of the older age level.]

### PHYSICAL SITE

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

\* \* \* \* \*

(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) \* \* \*

[(2)] (ii) \* \* \*

(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 1/2 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 1 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.

(i) 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.

**§ 3270.70. Indoor temperature.**

\* \* \* \* \*

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

**§ 3270.75. First-aid kit.**

\* \* \* \* \*

(c) A first-aid kit [shall] must 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] must accompany children and facility persons on excursions from the facility. Each first aid kit taken on an excursion must contain a bottle of water in addition to the items specified at subsection (c).

\* \* \* \* \*

**§ 3270.82. Toilet areas.**

\* \* \* \* \*

(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

### § 3270.102. Condition of play equipment.

\* \* \* \* \*

(c) Outdoor equipment that requires embedded mounting [shall] must 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 must 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 may not be used by children at the facility and may not be on the premises at the facility.

### § 3270.104. Furniture.

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

\* \* \* \* \*

### § 3270.106. Rest equipment.

\* \* \* \* \*

(J) TOYS, BUMPER PADS, OR PILLOWS MAY NOT BE PRESENT IN A CRIB WHILE AN INFANT IS SLEEPING IN THE CRIB.

\* \* \* \* \*

## 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.

(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~~ 3270.55.

\* \* \* \* \*

(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.

**§ 3270.115. Water activity.**

(a) *Swimming.*

\* \* \* \* \*

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

\* \* \* \* \*

**§ 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.

\* \* \* \* \*

**§ 3270.119. Program plan PROGRESS CHECKLIST.**

(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 must incorporate the Individualized

~~Education Program, Individualized Family Service Plan or formal behavioral plan if that plan is reviewed and implemented within the 60 days.~~ THE FACILITY SHALL COMPLETE A SEMI-ANNUAL PROGRESS CHECKLIST FOR EACH INFANT, TODDLER AND PRESCHOOL CHILD AND FOR EACH SCHOOL-AGE CHILD WHO ATTENDS THE FACILITY MORE THAN 15 HOURS PER WEEK.

~~(b) The child's program plan must 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.~~ THE PROGRESS CHECKLIST MUST BE COMPLETED ON A FORM APPROVED BY THE DEPARTMENT. THE DEPARTMENT WILL PROVIDE A LIST OF APPROVED FORMS.

~~(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.~~ THE DIRECTOR OR GROUP SUPERVISOR SHALL DATE AND SIGN THE CHILD'S PROGRESS CHECKLIST. THE CHILD'S PARENT SHALL BE GIVEN AN OPPORTUNITY TO SIGN AND RECEIVE A COPY OF EACH PROGRESS CHECKLIST.

~~—(d) The director or group supervisor shall revise the plan as needed to meet the needs of the child at each review.~~ A SIGNED AND DATED COPY OF THE PROGRESS CHECKLIST MUST BE PLACED IN THE CHILD'S FACILITY RECORD.

~~—(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.~~ A FACILITY THAT PARTICIPATES IN THE DEVELOPMENT OF THE CHILD'S IEP OR IFSP AND HAS A COPY OF THE IEP OR IFSP ON FILE IN THE CHILD'S RECORD IS EXEMPT FROM COMPLETING THE SEMI-ANNUAL PROGRESS CHECKLIST.

~~(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 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~~ IN THE SLEEPING POSITION RECOMMENDED BY THE AMERICAN ACADEMY OF PEDIATRICS 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**

**§ 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).

**§ 3270.124. Emergency contact information.**

\* \* \* \* \*

(b) Emergency contact information [shall] must 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**

**§ 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 must 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 must 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 must be dated in accordance with the requirements for medical examinations for school attendance in 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] must be written and signed by a physician, physician's assistant or a CRNP. The signature [shall] must 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, INCLUDING INFORMATION REGARDING ABNORMAL RESULTS OF SCREENING TESTS FOR VISION, HEARING OR LEAD POISONING.

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

\* \* \* \* \*

(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.

(8) A STATEMENT THAT AGE-APPROPRIATE SCREENINGS RECOMMENDED BY THE AMERICAN ACADEMY OF PEDIATRICS WERE CONDUCTED SINCE THE TIME OF THE PREVIOUS HEALTH REPORT REQUIRED BY THIS SECTION.

(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 must 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 must 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 in 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 in 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 of 1990 (ADA) (42 U.S.C.A. §§ 12101--12213)  
APPLICABLE FEDERAL AND STATE LAWS REGARDING DISABILITY  
DISCRIMINATION to facilitate administration of medication or a special diet THAT IS prescribed by a physician, physician's assistant or CRNP for a child with AS TREATMENT RELATED TO THE CHILD'S 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 BUT ARE NOT TREATMENT RELATED TO THE CHILD'S 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] by immediately placing the diaper into a plastic-lined, hands-free covered can. [The diaper shall be:

(i) immediately placed into a lined outdoor trash container.

(ii) Placed in an individual, tied bag and discarded indoors until outdoor disposal is possible.]

\* \* \* \* \*

(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] must include the individual's professional title.

(c) The health assessment [shall] must 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] 7 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).

\* \* \* \* \*

### § 3270.176. 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

### § 3270.182. Content of records.

A child's record shall contain the following information:

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

\* \* \* \* \*

[NIGHT CARE]

*(Editor's Note: As part of this final-form rulemaking, the Department is deleting the text of §§ 3270.201--3270.210, which appears at 55 Pa. Code pages 3270-54 to 3270-56, serial pages (204590) to (204592).)*

**§ 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).**

## **SPECIAL EXCEPTIONS**

**§ 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)] \_\_\_\_\_ *(Editor's Note: The*

blank refers to the effective date of adoption of this final-form rulemaking.) has

until \_\_\_\_\_ *(Editor's Note: The blank refers to a date 2 years after the effective date of*

adoption of this final-form rulemaking.) 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,] \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this final-form rulemaking.) which has a play surface not in compliance with § 3270.102(e) [is exempt from the requirement unless the surface is replaced] has until \_\_\_\_\_ (*Editor's Note:* The blank refers to a date 2 years after the effective date of adoption of this final-form rulemaking.) to comply with the requirement described in § 3270.102(e).

### SCHOOL-AGE PROGRAMS

#### § 3270.241. 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 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.

\* \* \* \* \*

(17) Staff persons shall have immediate access to a working telephone on the facility premises. IF A LAND-LINE TELEPHONE IS NOT ACCESSIBLE TO STAFF PERSONS DURING THE HOURS OF FACILITY OPERATION, A WIRELESS TELEPHONE IS ACCEPTABLE.

## 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.

\* \* \* \* \*

[*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 1 year of age.

(ii) *Young toddler*--A child from [13 through 24 months] 1 to 2 years of age.

(iii) *Older toddler*--A child from [25 through 36 months] 2 to 3 years of age.

(iv) *Preschool child*--A child from [37 months of age through] 3 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] 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 IEP, an Individualized Family Service Plan IFSP OR A SERVICE AGREEMENT.

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

(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.

\* \* \* \* \*

*IEP* – INDIVIDUALIZED EDUCATION PROGRAM AS DEFINED IN 22 PA.CODE § 14.101 (RELATING TO DEFINITIONS) AND §§ 14.131-14.133 (RELATING TO IEP; ESY; AND BEHAVIOR SUPPORT).

*IFSP* – INDIVIDUALIZED FAMILY SERVICE PLAN AS DEFINED IN 55 PA. CODE §4226.5 (RELATING TO DEFINITIONS) AND §§ 4226.71-4226.77.

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

\* \* \* \* \*

*SERVICE AGREEMENT* – A SERVICE AGREEMENT AS DEFINED IN 22 PA. CODE § 15.2 AND §15.7 (RELATING TO DEFINITIONS; AND SERVICE AGREEMENT).

\* \* \* \* \*

## **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 precertification orientation does not count toward the annual minimum of 6 hours of child care training required in § 3280.31(e) (relating to age and training).

(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) \* \* \*

[(d)] (e) \* \* \*

[(e)] (f) \* \* \*

[(f)] (g) \* \* \*

[(g)] (h) A facility whose certificate of compliance is current as of [April 4, 1992,] \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.*) 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] in 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 of 1990 (ADA) (42 U.S.C.A. §§ 12101--12213) APPLICABLE FEDERAL AND STATE LAWS REGARDING DISABILITY DISCRIMINATION.

(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 IEP, Individualized Family Service Plan

IFSP, formal OR WRITTEN 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 a primary staff person HAS REASON TO 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 SECONDARY staff person HAS REASON TO believes a child may need an assessment due to developmental, behavioral or health concerns, the SECONDARY 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.**

\* \* \* \* \*

(c) An agent of the Department will IS AUTHORIZED TO 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 INCLUDING SHELTER IN PLACE AT THE FACILITY AND SHELTER AT LOCATIONS AWAY FROM THE FACILITY PREMISES.

(2) Evacuation of children from the facility BUILDING AND EVACUATION OF CHILDREN TO A LOCATION AWAY FROM THE FACILITY PREMISES. THE EVACUATION ROUTES AND EVACUATION PLANS TO EXIT THE BUILDING MAY BE THE SAME AS THOSE REQUIRED BY § 3280.94 (F) AND (G) (RELATING TO FIRE DRILLS).

(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 UPDATES to the county emergency management agency.

## **FACILITY PERSONS**

**§ 3280.31. Age and training.**

\* \* \* \* \*

(d) CHILD CARE PROFESSIONAL CREDENTIALS ARE EQUIVALENT TO THE STAFF QUALIFICATIONS LISTED BELOW:

(1) 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] 9 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.]

(2) A PENNSYLVANIA SCHOOL-AGE PROFESSIONAL CREDENTIAL IS EQUIVALENT TO 9 CREDIT HOURS FROM AN ACCREDITED COLLEGE OR UNIVERSITY IN ELEMENTARY EDUCATION OR CHILD DEVELOPMENT AND 1 YEAR EXPERIENCE WITH CHILDREN.

\* \* \* \* \*

**STAFF-CHILD RATIO**

**§ 3280.52. Ratio requirements.**

\* \* \* \* \*

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

	Maximum			
	Staff	Children	Group Size	Total Number of Staff Required for the Maximum Group Size
Infant/young or older toddler	1	4	12	3
Young toddler/older toddler	1	5	12	3
Older toddler/ preschool	1	6	12	2
Preschool/young school-age	1	10	12	2
Young school-age/older school-age	1	12	12	1]

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.

\* \* \* \* \*

(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 in § 3280.105(f).

(ii) The capacity may be exceeded for 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 1/2 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 1 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.**

\* \* \* \* \*

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

**§ 3280.75. 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 § 3270.133(9) (relating to child medication and special diets).]

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

## EQUIPMENT

### § 3280.102. 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 must be anchored firmly and be in good repair.

\* \* \* \* \*

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

\* \* \* \* \*

### § 3280.105. Rest equipment.

\* \* \* \* \*

(J) TOYS, BUMPER PADS, OR PILLOWS MAY NOT BE PRESENT IN A CRIB WHILE AN INFANT IS SLEEPING IN THE CRIB.

\* \* \* \* \*

**§ 3280.108. Furniture.**

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

\* \* \* \* \*

**PROGRAM**

**§ 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 3280.53.

\* \* \* \* \*

(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] must 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 PROGRESS CHECKLIST.**

(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 must incorporate the Individualized Education Program;

~~Individualized Family Service Plan or formal behavioral plan if that plan is reviewed and implemented within the 60 days.~~ THE FACILITY SHALL COMPLETE A SEMI-ANNUAL PROGRESS CHECKLIST FOR EACH INFANT, TODDLER AND PRESCHOOL CHILD AND FOR EACH SCHOOL-AGE CHILD WHO ATTENDS THE FACILITY MORE THAN 15 HOURS PER WEEK.

~~(b) The child's program plan must 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.~~ THE PROGRESS CHECKLIST MUST BE COMPLETED ON A FORM APPROVED BY THE DEPARTMENT. THE DEPARTMENT WILL PROVIDE A LIST OF APPROVED FORMS.

~~(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 must also be reviewed according to the schedule specified in the Individualized Education Program, Individualized Family Service Plan or formal behavioral plan.~~ THE PRIMARY STAFF PERSON SHALL DATE AND SIGN THE CHILD'S PROGRESS CHECKLIST. THE CHILD'S PARENT SHALL BE GIVEN AN OPPORTUNITY TO SIGN AND RECEIVE A COPY OF EACH PROGRESS CHECKLIST.

~~(d) The primary staff person shall revise the plan as needed to meet the needs of the child at each review.~~ A SIGNED AND DATED COPY OF THE PROGRESS CHECKLIST MUST BE PLACED IN THE CHILD'S FACILITY RECORD.

~~(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.~~ A FACILITY THAT PARTICIPATES IN THE DEVELOPMENT OF THE CHILD'S IEP OR IFSP AND HAS A COPY OF THE IEP OR IFSP ON FILE IN THE CHILD'S RECORD IS EXEMPT FROM COMPLETING THE SEMI-ANNUAL PROGRESS CHECKLIST.

~~(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 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~~ IN THE SLEEPING POSITION RECOMMENDED BY THE AMERICAN ACADEMY OF PEDIATRICS 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.

### **PROCEDURES FOR ADMISSION**

#### **§ 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).

**§ 3280.124. Emergency contact information.**

\* \* \* \* \*

(b) Emergency contact information [shall] must 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 must 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 must 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 must be dated in accordance with the requirements for medical examinations for school attendance at in 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] must be written and signed by a physician, physician's assistant or a CRNP. The signature [shall] must 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, INCLUDING INFORMATION REGARDING ABNORMAL RESULTS OF SCREENING TESTS FOR VISION, HEARING OR LEAD POISONING.

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

\* \* \* \* \*

(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.

(8) A STATEMENT THAT AGE-APPROPRIATE SCREENINGS RECOMMENDED BY THE AMERICAN ACADEMY OF PEDIATRICS WERE CONDUCTED SINCE THE TIME OF THE PREVIOUS HEALTH REPORT REQUIRED BY THIS SECTION.

(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 must 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 must 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 in 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 in 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 of 1990 (ADA) (42 U.S.C.A. §§ 12101–12213)  
APPLICABLE FEDERAL AND STATE LAWS REGARDING DISABILITY  
DISCRIMINATION to facilitate administration of medication or a special diet AS  
prescribed by a physician, physician's assistant or CRNP for a child with AS A  
TREATMENT RELATED TO THE CHILD'S 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 BUT ARE NOT TREATMENT RELATED TO THE CHILD'S 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] by immediately placing the diaper into a plastic-lined, hands-free covered can. [The diaper shall be:

(i) immediately placed into a lined outdoor trash container.

(ii) Placed in an individual, tied bag and discarded indoors until outdoor disposal is possible.]

\* \* \* \* \*

(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] must include the individual's professional title.

(c) The health assessment [shall] must 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] 7 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 67 Pa. Code Chapter 171 (relating to school buses and school vehicles).

**CHILD RECORDS**

**§ 3280.182. Content of records.**

A child's record [shall] must contain the following information:

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

\* \* \* \* \*

**[NIGHT CARE]**

(*Editor's Note:* As part of this final-form rulemaking, the Department is deleting the text of §§ 3280.201--3280.209, which appears at 55 Pa. Code pages 3280-49 and 3280-50, serial pages (204645) and (204646).)

**§§ 3280.201--3280.209.**

**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)] \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this final-form rulemaking.) has until \_\_\_\_\_ (*Editor's Note:* The blank refers to a date 2 years after the effective date of adoption of this proposed rulemaking.) 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,] \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this final-form rulemaking.) which has a play surface not in compliance with § 3280.102(e) [is exempt from the requirement unless the surface is replaced] has until \_\_\_\_\_ (*Editor's Note:* The blank refers to a date 2 years after the effective date of adoption of this final-form rulemaking.) to comply with § 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. IF A LAND-LINE TELEPHONE IS NOT ACCESSIBLE TO STAFF

PERSONS DURING THE HOURS OF FACILITY OPERATION, A WIRELESS TELEPHONE IS ACCEPTABLE.

## 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 1 year of age.

(ii) *Young toddler*--A child from [13 through 24 months] 1 to 2 years of age.

(iii) *Older toddler*--A child from [25 through 36 months] 2 to 3 years of age.

(iv) *Preschool child*--A child from [37 months of age through] 3 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 IEP, an Individualized Family Service Plan IFSP OR A SERVICE AGREEMENT.

(ii) A ~~formal~~ WRITTEN behavioral plan that has been determined by a licensed physician, ~~psychiatrist, or licensed psychologist~~, OR CERTIFIED BEHAVIOR ANALYST.

(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.

\* \* \* \* \*

*IEP* – INDIVIDUALIZED EDUCATION PROGRAM AS DEFINED IN 22 PA.CODE § 14.101 (RELATING TO DEFINITIONS) AND §§ 14.131-14.133 (RELATING TO IEP; ESY; AND BEHAVIOR SUPPORT).

*IFSP* – INDIVIDUALIZED FAMILY SERVICE PLAN AS DEFINED IN 55 PA.CODE § 4226.5 (RELATING TO DEFINITIONS) AND §§ 4226.71-4226.77.

\* \* \* \* \*

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

\* \* \* \* \*

*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].

\* \* \* \* \*

*SERVICE AGREEMENT* – A SERVICE AGREEMENT AS DEFINED IN 22 PA.CODE § 15.2 AND §15.7 (RELATING TO DEFINITIONS; AND SERVICE AGREEMENT).

\* \* \* \* \*

## 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 precertification orientation training provided by the Department within 12 months prior to

issuance of a certificate of compliance. The precertification orientation does not count toward the biennial minimum of 12 clock hours of child care training required in § 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) \* \* \*

[(g)] (h) \* \* \*

(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) \* \* \*

\* \* \* \* \*

[(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) \* \* \*

\* \* \* \* \*

[(m)] (n) An operator whose facility's certificate of registration is current as of [April 4, 1992,] \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.*) 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 in 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 of 1990 (ADA) (42 U.S.C.A. §§ 12101–12213) APPLICABLE FEDERAL AND STATE LAWS REGARDING DISABILITY DISCRIMINATION.

(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 IEP, Individualized Family Service Plan

IFSP, ~~formal~~ OR WRITTEN 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 HAS REASON TO 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 provide information to the parent regarding resources for referral and assistance.

(2) When a staff person HAS REASON TO 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 provide information to the parent regarding resources for referral and assistance.

**§ 3290.21. Departmental access.**

\* \* \* \* \*

(c) An agent of the Department ~~will~~ IS AUTHORIZED TO inspect for 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 INCLUDING SHELTER IN PLACE AT THE FACILITY AND SHELTER AT LOCATIONS AWAY FROM THE FACILITY PREMISES.

(2) Evacuation of children from the facility BUILDING AND EVACUATION OF CHILDREN TO A LOCATION AWAY FROM THE FACILITY PREMISES. THE EVACUATION ROUTES AND EVACUATION PLANS TO EXIT THE BUILDING MAY BE THE SAME AS THOSE REQUIRED BY § 3290.94 (F) AND (G) (RELATING TO FIRE DRILLS).

(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 UPDATES to the county emergency management agency.

## **FACILITY PERSONS**

### **§ 3290.31. Age and training.**

(a) The operator shall [be] 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) CHILD CARE PROFESSIONAL CREDENTIALS ARE EQUIVALENT TO THE STAFF QUALIFICATIONS LISTED BELOW:

(1) 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] 9 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.]

(2) A PENNSYLVANIA SCHOOL-AGE PROFESSIONAL CREDENTIAL IS EQUIVALENT TO 9 CREDIT HOURS FROM AN ACCREDITED COLLEGE OR UNIVERSITY IN ELEMENTARY EDUCATION OR CHILD DEVELOPMENT AND 1 YEAR EXPERIENCE WITH CHILDREN.

\* \* \* \* \*

**PHYSICAL PHYSICAL SITE**

**§ 3290.68. Indoor temperature.**

\* \* \* \* \*

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

**EQUIPMENT**

**§ 3290.102. Condition of play equipment.**

\* \* \* \* \*

(c) Outdoor equipment that requires embedded mounting [shall] must 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 must be anchored firmly and be in good repair.

\* \* \* \* \*

**§ 3290.105. Rest equipment.**

\* \* \* \* \*

(J) TOYS, BUMPER PADS, OR PILLOWS MAY NOT BE PRESENT IN A CRIB WHILE AN INFANT IS SLEEPING IN THE CRIB.

\* \* \* \* \*

**PROGRAM**

**§ 3290.113. 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 §§ 3290.51-3290.52 (relating to MAXIMUM NUMBER OF CHILDREN; AND STAFF:CHILD 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 PROGRESS CHECKLIST.**

~~(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.~~ THE FACILITY SHALL COMPLETE A SEMI-ANNUAL PROGRESS CHECKLIST FOR EACH INFANT, TODDLER AND PRESCHOOL CHILD AND FOR EACH SCHOOL-AGE CHILD WHO ATTENDS THE FACILITY MORE THAN 15 HOURS PER WEEK.

~~(b) The child's program plan must 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.~~ THE PROGRESS CHECKLIST MUST BE COMPLETED ON A FORM APPROVED BY THE DEPARTMENT. THE DEPARTMENT WILL PROVIDE A LIST OF APPROVED FORMS.

(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. THE OPERATOR SHALL DATE AND SIGN

THE CHILD'S PROGRESS CHECKLIST. THE CHILD'S PARENT SHALL BE GIVEN AN OPPORTUNITY TO SIGN AND RECEIVE A COPY OF EACH PROGRESS CHECKLIST.

(d) The operator shall revise the plan as needed to meet the needs of the child at each review. A SIGNED AND DATED COPY OF THE PROGRESS CHECKLIST MUST BE PLACED IN THE CHILD'S FACILITY RECORD.

(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.~~ A FACILITY THAT PARTICIPATES IN THE DEVELOPMENT OF THE CHILD'S IEP OR IFSP AND HAS A COPY OF THE IEP OR IFSP ON FILE IN THE CHILD'S RECORD IS EXEMPT FROM COMPLETING THE SEMI-ANNUAL PROGRESS CHECKLIST.

~~(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 IN THE SLEEPING POSITION RECOMMENDED BY THE AMERICAN ACADEMY OF PEDIATRICS 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**

**§ 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] must 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 in 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] must be written and signed by a physician, physician's assistant or a CRNP. The signature [shall] must include the individual's professional title.

(d) The health report [shall] must 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,  
INCLUDING INFORMATION REGARDING ABNORMAL RESULTS OF SCREENING TESTS FOR VISION, HEARING OR LEAD POISONING.

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

\* \* \* \* \*

(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.

(8) A STATEMENT THAT AGE-APPROPRIATE SCREENINGS RECOMMENDED BY THE AMERICAN ACADEMY OF PEDIATRICS WERE CONDUCTED SINCE THE TIME OF THE PREVIOUS HEALTH REPORT REQUIRED BY THIS SECTION.

(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 must 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 must 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 in 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 in 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 of 1990 (ADA) (42 U.S.C.A. §§ 12101–12213)  
APPLICABLE FEDERAL AND STATE LAWS REGARDING DISABILITY  
DISCRIMINATION to facilitate administration of medication or a special diet THAT IS prescribed by a physician, physician's assistant or CRNP for a child with AS TREATMENT RELATED TO THE CHILD'S 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 BUT ARE NOT TREATMENT RELATED TO THE CHILD'S 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] by immediately placing the diaper into a plastic-lined, hands-free covered can [The diaper shall be:

(i) immediately placed into a lined outdoor trash container.

(ii) Placed in an individual, tied bag and discarded indoors until outdoor disposal is possible.]

\* \* \* \* \*

(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] must include the individual's professional title.

(c) The health assessment [shall] must 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] 7 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 67 Pa. Code Chapter 171 (relating to school buses and school vehicles).

## CHILD RECORDS

### § 3290.182. Content of records.

A child's record [shall] must contain the following information:

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

\* \* \* \* \*

## [NIGHT CARE]

(*Editor's Note:* As part of this final-form rulemaking, the Department is deleting the text of §§ 3290.201--3290.208, which appears at 55 Pa. Code pages 3290-35 and 3290-36, serial pages (204685)--(204686).)

**§§ 3290.201--3290.208.**

**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,] \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this final-form rulemaking.) has until \_\_\_\_\_ (*Editor's Note:* The blank refers to a date 2 years after the effective date of adoption of this final-form rulemaking.) 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] \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this final-form rulemaking.) which has a play surface or play surface not in compliance with § 3290.102(e) [is exempt from the requirement unless the surface is replaced] has until \_\_\_\_\_ (*Editor's Note:* The blank refers to a date 2 years after the effective date of adoption of this final-form rulemaking.) to comply with § 3290.102(e).

**§ 3290.213. Age and training.**

The operator of a facility WHO IS LAWFULLY OPERATING A FAMILY CHILD DAY CARE HOME registered by the Department as of \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.*) is permanently qualified as an operator at the currently registered OF A family CHILD day care home.

### **CHAPTER 3300. (Reserved)**

(*Editor's Note: As part of this final-form rulemaking, the Department is proposing to delete the text of §§ 3300.1--3300.4, 3300.11--3300.13, 3300.31--3300.36, 3300.51--3300.54, 3300.71, 3300.101, 3300.102, 3300.111--3300.113, 3300.121, 3300.131, 3300.161 and 3300.171, which appears at 55 Pa. Code pages 3300-1 to 3300-15, serial pages (253095) to (253096) and (252719) to (252731).*)

**§§ 3300.1--3300.4. (Reserved).**

**§§ 3300.11--3300.13. (Reserved).**

**§§ 3300.31--3300.36. (Reserved).**

**§§ 3300.51--3300.54. (Reserved).**

**§ 3300.71. (Reserved).**

**§ 3300.101. (Reserved).**

**§ 3300.102. (Reserved).**

**§§ 3300.111--3300.113. (Reserved).**

**§ 3300.121. (Reserved).**

**§ 3300.131. (Reserved).**

**§ 3300.161. (Reserved).**

**§ 3300.171. (Reserved).**