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Submitted via irrc@irrc.state.pa.us



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

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

Dear Ms. Ferguson:

On behalf of the Pennsylvania Child Care Association, please accept our comments on the proposed changes to the child care facility regulations referenced above. The Pennsylvania Child Care Association has thoroughly supported the efforts of the Department of Human Services, Office of Child Development & Early Learning to undertake and review ways to make our early learning systems work more efficiently, reducing the burden on government and providers. OCDEL has engaged stakeholders inside and outside of government in this process. We welcome the opportunity to provide additional input and comment.

For more than 40 years, Pennsylvania Child Care Association (PACCA) has served as a resource and clearinghouse of information for practitioners, agencies, press, legislators and the general public. PACCA's members operate nearly 2,400 center, group and family child care programs employing over 20,000 staff and caring for over 140,000 children aged birth through school-age. Additionally, our members include those who have a business or personal interest in high-quality child care.

PACCA notes the development and issuance of this set of regulations has been a nearly three-year process. As a result, we urge the Department of Human Services to review any and all timelines described in the regulations and accompanying documents to allow for sufficient time to educate and support providers. PACCA recommends a 120-day effective date from the issuance of the final form regulations.

Pennsylvania's child care facility regulations ensure minimum standards to protect the health, safety, and rights of children and families in child care. They are the foundation for our efforts to increase the

quality of our child care programs so all families can be assured their children are in developmentally appropriate and enriching programs.

PACCA understands that many of the proposed changes to the child care facility regulations are the result of the Reauthorization of the Child Care and Development Block Grant (CCDBG). These are mandatory changes that Pennsylvania must make in order to come into compliance with the CCDBG.

CCDBG Related Changes

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

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

Other proposed changes

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

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

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

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

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

PACCA's comment: PACCA supports the clarification and outline of the process.

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

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

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

PACCA's comment: At first glance this change in the definition of "Relative" appears to provide consistency between Chapter 3270, 3280 and 3290 of the regulations. However, there are subsequent sections of Chapter 3290 to which this definition applies that could impact the health and safety of children in care. Chapter 3290 provides standards for family child care

homes – “A home other than the child’s own home, operated for profit or not-for-profit, in which child [day] care is provided at any one time to four, five or six children unrelated to the operator.” There is no regulation limiting the maximum number of “related” children that can be cared for by the family child care home operator and no requirement that standard staff to child ratios are applied. In Chapter 3280 Group Child Care Homes “A facility located in a residence or another premise”, operators must conform to staff to child ratios and minimum space requirements for both related and non-related children (Chapter 3280.53 Children of an operator or a facility person). While addressing consistency between regulations around definitions, DHS leaves open a potentially dangerous policy that jeopardizes the health and safety of ALL children in the family child care home. *PACCA recommends, that DHS additionally adopt staff to child ratios for family child care homes and space requirements for both unrelated and related children as per Chapter 3280.53 for Group Child Care Homes.*

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

PACCA’s comment: PACCA believes that while good intentioned, this requirement may be unreasonable when the availability of health services are inconsistent across the commonwealth. A 2017 survey of *Physician Appointment Wait Times & Medicaid and Medicare Acceptance Rates* conducted by Merritt Hawkins, a national physician search firm and a company of AMN Healthcare found the time it takes to schedule a new patient physician appointment in 15 major metropolitan areas has increased by 30 percent since 2014. The survey indicates that it now takes an average of 24 days to schedule a new patient physician appointment in 15 of the largest cities in the U.S., up from 18.5 days in 2014.¹ The onus to comply inevitably falls to the child care provider who would be cited by certification when a family is unable or does not comply with the regulation, but needs child care due to job search and attainment. PACCA urges DHS to withdraw this change and revert to the 60-day provision.

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

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

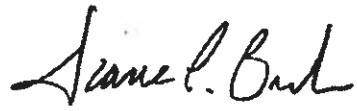
¹ <https://www.merritthawkins.com/news-and-insights/thought-leadership/survey/survey-of-physician-appointment-wait-times/>

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

PACCA's comment: PACCA supports this provision.

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

Regards,

A handwritten signature in black ink that reads "Diane P. Barber". The signature is written in a cursive, flowing style.

Diane P. Barber
Executive Director