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Sent: Saturday, November 10, 2018 5:24 PM
To: PW, CC Reg Changes
Cc: Annette Myarick (Amyarick@paaap.org)
Subject: Proposed Rule Making - child care regulations
Attachments: 11-10-2018 7 membPA AAP ECC comments.pdf

A PDF of the collated comments from 7 pediatricians on the proposed child care regulation revision is attached to this email.

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To: PA Department of Human Services Office of Child Development and Early Learning (OCDEL)

Comments Compiled by Susan S. Aronson, MD, FAAP – Chair of the PA AAP Early Childhood Committee with input from:

- Elaine Donoghue, MD, FAAP (Northeast PA)
- Alicia Haupt, MD, FAAP (Southwest PA)
- Natalie Lai, MD, FAAP (Southeast PA)
- Brittany Massare, MD, FAAP (Central PA)
- Susan Robbins, MD, FAAP (Southeast PA)
- Timothy Shope, MD, MPH, FAAP (Southwest PA)

Re PROPOSED RULEMAKING, DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CHS. 20, 3041, 3270, 3280 AND 3290]
Child Care Facilities
[48 Pa.B. 6564] [Saturday, October 13, 2018]

Pediatricians have long advocated for quality early education and child care. A pediatrician, Dr. Julius Richmond was the co-founder of Head Start. The roles of pediatric health professionals in early education programs include provision of online training, materials and collaborative child care health consultation relationships with early education programs at the local, regional, state and national levels.

The pediatric health professionals who provided these comments are members of the Early Childhood Committee of the PA Chapter of the American Academy of Pediatrics. They advise the work of the PA AAP's 29-year-old program known as ECELS – the Early Childhood Education Linkage System. The chair of the PA AAP Early Childhood committee is Susan Aronson, MD, FAAP. Dr. Aronson is the co-author/editor with Timothy Shope, MD, FAAP (Professor of Pediatrics, University of Pittsburgh School of Medicine) of the widely-used national AAP reference *Managing Infectious Diseases in Child Care and Schools*, most recently updated in 2017 as the 4th edition. The members of the PA AAP Early Childhood Committee individually reviewed and provided input to these comments.

The PA AAP commends DHS for the proposed revision of the child care facility regulations under 55 Pa. Code Chapters 3270, 3280 and 3290 (relating to child day care centers; group child day care homes; and family child day care homes). We recognize that many updates are those required for the state to receive and administer the large Child Care Development Block Grant (CCDBG) federal subsidy. We support the stated intent in the PA Bulletin announcement of the proposed regulation update that indicates the regulation revisions go beyond compliance with CCDBG requirements and are intended “to aid in protecting the health, safety and rights of families and to reduce risks to children in child care centers, group child care homes and family child care homes.” Consistent with this broader intent, **the PA AAP recommends consideration of the following four additional revisions to Pennsylvania child care regulations.** (These are listed here and explained in more detail in the following comments.)

1. Require regulated early education and child care programs to designate a staff member as a child care health advocate and document an agreement with a licensed health professional as a child care health consultant and source of expert input for the program. Function as a child care advocate can be in conjunction with any other roles in the program played by that person.
2. Revise regulations related to exclusion of children with symptoms of mild illness to meet current evidence-based criteria established and updated in *Caring for Our Children*, (CFOC) the online publication of the national American Academy of Pediatrics, and the federally-funded National Resource Center for Health and Safety.
3. Revise the regulation related to use of microwave ovens to prohibit their use to warm any liquids or foods intended for feeding infants. See CFOC Standard 4.3.1.9.
4. Revise the regulation that states the maximum opening of windows is 6 inches to allow no more than 4 inches. See CFOC Standard 5.1.3.2 Possibility of Exit from Windows

Details for Recommended Additional Changes

- 1. REVISE CHILD CARE REGULATIONS TO REQUIRE DESIGNATION OF A STAFF MEMBER TO BE A CHILD CARE HEALTH ADVOCATE AND DOCUMENT AN AGREEMENT WITH A LICENSED HEALTH PROFESSIONAL FOR CHILD CARE HEALTH CONSULTATION**

Rationale: Pennsylvania's child care programs serve infants, toddlers, preschool and school-age children. Over 60% of children are enrolled in early education programs before they are 6 years of age. These youngest and most vulnerable children need more frequent routine health services and illness care; some have special health needs. A child care health consultant who visits and observes health and safety practices, then works collaboratively with a staff person who is designated as a child care health advocate can provide a program analogous to the school health program that Pennsylvania requires for school-age children. The CCHA-CCHC relationship makes efficient use of advice provided by the CCHC to integrate recommended health and safety practices into day-to-day operations.

Beginning with the study of quality improvement in Pennsylvania child care programs published in 1980, many studies have demonstrated the efficacy of engagement of child care health consultants to improve health and safety performance. (Aronson, S. and Aiken, L. "The Impact of Program Evaluation and of Training Staff of Child Care Programs to be Advocates for Health and Safety" *Pediatrics* 65:318-325, 1980.) The 2017 publication of the findings of PA AAP's Infant-Toddler Quality Improvement Project showed the value of child care health consultation in Pennsylvania infant and toddler programs. (<http://dx.doi.org/10.1016/j.pedhc.2017.05.005>)

The Environment Rating Scales (ERS) are commonly used to assess quality in early education programs. The health and safety items in the ERS receive the lowest scores in most programs. A large proportion of programs receive the lowest level scores (1 or 2 = "inadequate") on health and safety items, well below the score of 5 for "good" performance. **Current performance data from PA early education programs assessed for Keystone STARS using the ERS confirm this finding. ERS scores from 2016-17 and 2017-18 demonstrate little to no improvement and in some cases, decreased scores in the health and safety items.**

Thirty-four states require regular visits by a child health consultant. In a 2011 national survey, 17 states reported their state has a statutory (legislated) requirement for child care health consultation. These states were: California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Maine, Massachusetts, Minnesota, New Jersey, New York, North Carolina, Rhode Island, Tennessee and Washington. PA child care regulation revision should include a requirement for regulated programs to have a child care health consultant.

In Pennsylvania, except for grant-funded projects and Head Start programs, few early education programs have engaged health professionals as child care health consultants. A small number of child care health consultants are asked for help when a problem is recognized by compliance or technical assistance staff. This approach misses the benefit of observations made in ongoing collaborative relationships of early educators with health professionals. The incorporation of recommendations from webinars, online, print, emails and other resources are more likely to occur when early educators have an ongoing relationship with a CCHC who provides in-person coaching and technical assistance.

Recommendation: Pennsylvania should adopt regulations that require certified child care programs to make agreements with child care health consultants for on-site observations and planning subsequent involvement as needed. The current Keystone STARS program standards recognize the value of child care health consultation by providing an option for STAR 3 and

STAR 4 programs to earn points toward STARS certification by having a service agreement with a child care health consultant. **Systems-building is needed to increase availability and use of health professionals who are recruited, trained and mentored to perform as child care health consultants.** This approach accomplishes the benefits of child care health consultation that have been demonstrated in studies done in Pennsylvania and other states.

2. REVISE OUT-OF-DATE EARLY EDUCATION AND CHILD CARE EXCLUSION REGULATIONS Title 55 PA Code (Human Services) Chapter 3270.137, 3280.137, and 3290.137 and Title 28 PA Code (Health and Safety) Communicable and Noncommunicable Diseases, Chapter 27.

Rationale: The current regulations require exclusion of children with symptoms when exclusion is unnecessary and ineffective in the prevention of spread of infection. The current regulations call for child care staff to make decisions about excluding an ill child based on whether a child's illness is communicable, transmissible, or contagious. This assessment is not easy to make. For many common infectious diseases, children are most likely to spread their infections before they develop symptoms of their illness. A literal interpretation of the existing regulations is that every child who has a mild infectious illness like a common cold, should be excluded and evaluated by a health care provider.

The current regulations require that parents get notes from health care providers to say that children are well enough to return to child care. For most common infectious illnesses, health professionals determine that the child is well when the child no longer acts ill. For some parents, getting notes can mean time off from work and out-of-pocket expense.

A reference to American Academy of Pediatrics (AAP) recommendations is already in the PA DHS regulations for documentation of Health Assessments of enrolled children to include age-appropriate screenings recommended by the American Academy of Pediatrics in 3270.131(d)(8), 3280.131(d)(8), 3290.131(d)(8). Reference to the AAP recommended exclusion conditions will enable ongoing updating and notification of any changes to the list of the nationally recommended specific excludable conditions from the standards. Otherwise, the entire list of excludable conditions will need to be copied into the regulation and a regulation revision will be needed each time an evidence-based change is recommended by the American Academy of Pediatrics, The American Public Health Association and the federally-funded National Resource Center for Health and Safety in Child Care and Early Education, authors/publishers of *Caring for Our Children*. The recommended citation for the national standards where the guidance for exclusion is detailed is:

American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education. *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs*. <http://cfoc.nrckids.org> . *Caring for Our Children*, Standard 3.6.1.1, Standard 3.6.1.2 and Appendix A: Signs and Symptoms Chart (<http://nrckids.org/CFOC>)

For several years, Timothy Shope, MD, FAAP (Professor of Pediatrics, University of Pittsburgh School of Medicine), a member of the PA Chapter of the American Academy of Pediatrics Early

Childhood Committee has asked staff of the PA Department of Health staff and the PA Department of Human Services to update the coordinated regulations of these two departments related to exclusion of children from regulated child care facilities. The PA AAP Early Childhood Committee supports action on his recommendation (Dr. Shope provided in-person testimony about the need for this regulation revision in Harrisburg on November 2, 2018.)

Recommendations: We recommend updating the two related exclusion regulations to guide early educators about when exclusion of children for illness is necessary. The specific updates are:

Title 55 PA Code (Human Services)

Chapter 3270.137, 3280.137, and 3290.137

Delete the following wording from the 3270.137, 3280.137 and 3290.137 regulations: “An operator who observes an enrolled child with symptoms of a communicable disease or infection that can be transmitted directly or indirectly, and which may threaten the health of children in care shall exclude the child from attendance until the operator receives notification from a physician or a CRNP that the child is no longer considered a threat to the health of others. The notification shall be retained in the child’s file. Diseases and conditions which require exclusion are specified in 28 Pa.Code Chapter 27 (relating to communicable and noncommunicable diseases). The Department of Health will provide, upon request, a list of communicable diseases.

Replace the wording in 3270.137, 3280.137 and 3290.137 regulations with the following wording adapted from *Caring for Our Children*, Standard 3.6.1.1 (<http://nrckids.org/CFOC>)

“When a child seems ill, the child’s teacher/caregiver and the child care program director or group supervisor shall determine whether temporary exclusion is necessary because the illness:

1. Prevents the child from participating comfortably in activities;
2. Results in a need for care that is greater than the staff can provide without compromising the health and safety of other children;
3. Poses a risk of spread of harmful diseases to others. This risk includes the following conditions and diseases that require exclusion: (insert or reference the list in *Caring for Our Children* Standard 3.6.1.1 (<http://nrckids.org/CFOC>)) :
4. Is causing the following symptoms that may indicate a significant medical problem: (insert or reference the list in *Caring for Our Children*, Appendix A) (<http://nrckids.org/CFOC>)

Title 28 PA Code (Health and Safety) Communicable and Noncommunicable Diseases, Chapter 27.

Recommendation: Replace 27.76 with the wording for the key criteria to use to decide on exclusion for illness and the specific conditions listed in *Caring for Our Children: National Health and Safety Performance Standards*, the national standards on the federally-funded internet website of the National Resource Center for Health and Safety in Child Care and Early

Education. Refer to the standards for specific conditions that require exclusion in the following online widely-used reference:

American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education. *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs*. <http://cfoc.nrckids.org>. *Caring for Our Children*, Standard 3.6.1.1, Standard 3.6.1.2 and Appendix A: Signs and Symptoms Chart (<http://nrckids.org/CFOC>)

3. Revise PA Regulation §3290.166. Meals for infants.

Rationale: CFOC Standard 4.3.1.9 explains the rationale and procedure for warming bottles and infant foods

“Bottles and infant foods do not have to be warmed; they can be served cold from the refrigerator. If a caregiver/teacher chooses to warm them, bottles or containers of infant foods should be warmed under running, warm tap water or by placing them in a container of water that is no warmer than 120°F (49°C). Bottles should not be left in a pot of water to warm for more than 5 minutes. Bottles and infant foods should never be warmed in a microwave oven because uneven hot spots in milk and/or food may burn the infant (1,2). Infant foods should be stirred carefully to distribute the heat evenly.”

Recommendation: Revise the regulation addressing meals for infants to include the following requirements:

(7) [Delete current regulation wording “Bottled formula may not be heated in a microwave oven.”] [Substitute wording “**Bottled formula , human milk and infant foods may not be heated in a microwave oven. They can be served cold from the refrigerator or if warming is done, the procedure should be to place the bottle or food container under running, warm tap water or in a container of water no warmer than 120 degrees F (49 degrees C). Bottles should not be left in warm water to warm for more than 5 minutes. Infant foods should be stirred to distribute the heat evenly.** “

4. Revise PA Regulation § 3270.72. Ventilation.

Rationale: CFOC Standard 5.1.3.2 cites the US Consumer Product Safety Commission 2000 standard that except for guarded evacuation windows, windows for programs serving children less than 5 years of age should not open more than 4 inches to prevent the possibility of a child falling from the window, or putting body parts outside the window in an attempt to exit and suffering head entrapment (getting stuck hanging from the window by head and neck.)

Recommended wording change:

- (a) Natural or mechanical ventilation shall be provided in child care spaces.
- (b) Windows or doors used for ventilation shall be screened when open.
- (c) Screens shall be in good repair.

(d) Windows or doors above the ground floor that open directly to the outdoors and are accessible to children shall be constructed, modified or adapted to limit the opening to [Delete current regulation wording "6 or fewer inches."] [Substitute wording adapted from CFCO Standard 5.1.3.2 "All windows in areas used by children under five years of age should be constructed, adapted, or adjusted to limit the exit opening accessible to children to less than four inches, or be otherwise protected with guards that prevent exit by a child, but that do not block outdoor light, or if needed for emergency rescue and evacuation, are equipped with guards that enable staff to release the guard when evacuation or rescue is required. Opportunities should be provided for staff to practice opening these windows, and such release should not require the use of tools or keys. Children should be given information about these windows, relevant safety rules, as well as what will happen if the windows need to be opened for an evacuation."]

Thank you for the opportunity to submit comments. The PA AAP has operated a program known as the Early Childhood Education Linkage System for nearly 30 years. When properly funded, ECELS has been able to recruit and mentor health professionals to serve as child care health consultants and provide technical assistance to all who work to keep children safe and healthy in quality educational environments. The PA AAP continues to strive to help the state build a system that implements successful approaches to reduce the risk of harm and promote health of children in early education programs.

Respectfully submitted by Susan S. Aronson, MD

A handwritten signature in cursive script that reads "Susan S. Aronson, MD". The signature is written in black ink and is positioned below the typed name.