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Proposed Regulation
Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40 -111
Regulation title	Standards for Licensed Family Day Homes
Action title	New Regulation
Date this document prepared	June 18, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The proposed regulatory action is a joint action to repeal the existing regulation, 22 VAC 40-110, and establish a new regulation, 22 VAC 40-111, for licensed family day homes. The new regulation includes additional requirements in the following areas: care and services for children; staff qualifications, training, and responsibilities; management of the family day home; physical plant features; disclosure of information to parents; and emergency preparedness.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The following sections of the Code of Virginia (Code) are the sources of legal authority to promulgate this regulation: § 63.2-217 (mandatory) states that the State Board of Social Services (Board) shall adopt regulations as may be necessary or desirable to carry out the purpose of Title 63.2 of the Code; § 63.2-

1721 (mandatory) requires applicants for family day home licensure to undergo a background check; § 63.2-1734 (mandatory and discretionary) addresses the Board's overall authority to promulgate regulations for licensed family day homes and specifies content areas to be included in the regulation.

The promulgating entity is the Board.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The new regulation replaces the current regulation, 22VAC40-110, Minimum Standards for Licensed Family Day Homes. The goal of the regulation is to protect the health, safety and well-being of children receiving care in licensed family day homes. The last major revision of the regulation for licensed family day homes occurred in 1993.

A periodic review of 22VAC40-110 was conducted in 1999. The periodic review resulted in a recommendation to repeal the current regulation and promulgate a new regulation to improve readability and clarity. In addition to incorporating the majority of the 1993 revisions, this new regulation adds requirements that are based on changes in law and practice.

This regulatory action has several purposes. The first purpose is to ensure that parents have sufficient information to make informed decisions about placing their children in licensed family day homes. The second purpose is to facilitate the social, emotional and intellectual development of children receiving care in licensed family day homes. The third purpose is to ensure the safety of children receiving care in licensed family day homes.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The proposed regulatory action adds requirements related to operational responsibilities of the licensee; capacity; general record keeping; children's and caregivers' records; written information for parents; proof of a child's age and identity along with a record of the child care and schools the child has attended; immunizations for children; qualifications and requirements for providers, substitute providers, and assistants; tuberculosis screening; physical or mental health evaluations for caregivers or household members; orientation for substitute providers and assistants; annual training for caregivers; medication administration training; home maintenance; hanging and drowning hazards; firearms; sharp objects; body fluids contamination; machinery; heaters; telephones; water supply; heating and cooling; electric fans; stairs; decks and porches; doors and windows; animals; smoking and prohibited substances; play equipment and materials; indoor slides and climbing equipment; outdoor platy area and equipment; rest areas; cribs; linens; infant and toddler equipment; play pens; supervision; programs; sleeping and resting; daily activities for infants and toddlers; television, computers, videos, and video games; time out; forbidden actions; parent notifications; swimming and wading activities; exclusion of sick children; hand washing; diapering and toileting; medication; sunscreen, diaper ointment, and insect repellant; first aid supplies; emergency radios; emergency information; posted telephone numbers; emergency preparedness and response plans; evacuation, relocation, and shelter-in-place procedures; emergency response drills; reports to the department and to the health department; meals and snacks; drinking water

and fluids; feeding infants; special feeding needs; transportation, drivers, and vehicles; and nighttime care.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public.

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage of the proposed regulatory action is the increased protection it provides to children receiving care in licensed family day homes. The proposed regulatory action strengthens the standards to provide much needed improvements for the care and services; for qualifications, training, and responsibilities of staff who provide the care and services; for management of the operation of the home; and for the building and grounds where care is provided.

When requirements are strengthened, there must be a balance between the benefit and associated costs. In the proposed regulatory action, a fair and reasonable balance has been achieved.

The advantage to the Commonwealth is that the proposed regulatory action reflects the importance that Virginia places on ensuring adequate child care for children of working parents. There are no known disadvantages to the Commonwealth.

It is possible that family day homes will pass along some of the increased costs to parents.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	Implementation and enforcement of the new regulation will not result in any significant increased cost to the state. Licensing staff with responsibility for implementation and enforcement are currently in place. The size of the regulation will increase, which will result in a slight increase in the cost of printing and distribution, particularly during initial implementation. These costs will be funded by the Department of Social Services' Division of Licensing Program's budget. Slight cost increases can also be anticipated for one-time staff and provider training upon implementation of the new regulation. Licensing fees cover the cost of provider training; staff training costs will be funded by the Division of

	Licensing Program's budget.
Projected cost of the regulation on localities	None.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Persons providing care to more than six children, excluding their own and resident children in their home or in the home of one of the children in care, are affected by this regulation. Also, persons caring for more than four children under the age of two years, including their own and resident children under the age of two years, are affected. These persons must be licensed, except that the person caring for infants may be voluntarily registered. The regulation affects children cared for in family day homes subject to licensure and their families.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	There are 1768 licensed family day homes that will be affected. All licensed family day homes are small businesses. The estimated number of children in care who will be affected is 19,467.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	$28 for CPR certification for assistants and any providers and substitute providers who are registered nurses or licensed practical nurses (previously exempt from certification requirement) $35 for first aid certification for assistants $8 for new staff orientation $26 for the cost of an extra 2 hours of annual training for caregivers required when regulation becomes effective [$10 for training; $16 for salary ($8 x 2 hrs.)] $68 for the extra 6 hours of annual training required for caregivers in the second year regulation is effective [$20 for training; $48 for salary ($8 x 6 hrs.)] $84 for an extra 8 hours of annual training required for caregivers in the third year regulation is effective [$20 for training; $64 for salary ($8 x 8 hrs.)] $110 for an extra 10 hours of annual training required for caregivers in the fourth year regulation is effective and annually thereafter [$30 for training; $80 for salary ($8 x 10 hrs.)] $50 for medication administration training for providers who choose to administer non-prescription medication to children

	$1000 for a fence or barrier around any play areas located within 30 feet of unfenced in-ground pool, fountain, pond; or within 30 feet of hazards including railroad tracks or streets with speed limits over 25 mph $20 for a land-line telephone $30 for land-line telephone service each month $8 for safety locks on each closet and bathroom door (if home is not currently equipped) $15 for a set of bed linens for each child $30 for basic water rescue certification for a caregiver if no other individual with water safety certification is available when children are in water over 2 feet deep $20 for activated charcoal preparation for first aid kit $15 for weather band radio and extra batteries $40 for provider to develop an emergency preparedness and response plan ($8 x 5 hrs.) $15 for a baby monitor if nighttime care is provided and provider is not sleeping in the room with the child or in an adjacent room

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

This new regulation is a comprehensive revision of the current regulation. Because of extensive changes and reorganization, the current regulation is being repealed and this new regulation is being promulgated. In developing this proposal, consideration was given to the necessity, the enforceability, reasonableness, and the cost impact of the regulation. Public comment was carefully reviewed and analyzed. Regulations from other states were examined. The department consulted with providers, parents, licensing inspectors, and staff of other agencies through various meetings and other contacts. All family day homes meet the definition of a "small business" and the new regulation is the least burdensome, least

intrusive and least costly alternative available to ensure the protection of children receiving care in licensed family day homes.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Section 63.2-1734 of the Code of Virginia mandates the Board to adopt regulations that are designed to ensure that the activities, services, facilities are conducive to the welfare of children under the control of licensed family day home providers. Through the Department of Social Services' collaboration with affected constituents (providers, parents, and licensing inspectors), the proposed regulation represents the best alternative to minimize the adverse impact on the small family day home business while ensuring protection of children.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

The proposed regulation was developed in consultation with an advisory committee comprised of five providers, two parents of children in licensed family day homes, a representative from the Division of Injury and Violence Prevention with the Virginia Department of Health, and two Licensing Inspectors. The advisory committee met twice and communicated by email on several occasions regarding various topics in the regulation. A team of licensing consultants in the Department of Social Services' Home Office. Representatives from the Virginia Department of Housing and Community Development and the Virginia Department of Emergency Management also assisted in the development of the proposed regulation.

The Notice of Intended Regulatory Action was mailed to all licensed family day home providers, the Department of Social Services' Licensing staff, and interested parties. Comments were received on both the changes proposed in the NOIRA and on areas of concern in the current regulation. All of the comments were received via the Internet. Comments were received from eight providers, two organizations - Virginia Association of Family Child Care (VAFCCA) and Voices for Children, staff from one licensing office (Office #1), and two Licensing Inspectors (LI).

Commenter	Comment	Agency response
Office #1	"Programmatic experience" (definition) – the last phrase in the paragraph refers to "or a faith-based organization." We would like clarification, if this were Sunday school would like it removed.	Faith-based organizations provide services to the community. Counting relevant experience from these settings increases the pool of providers who may qualify for licensure. Sunday school, Vacation Bible School or weekday Bible study may count toward meeting the experience requirement. Evidence of compliance with both the length of time, and

		that the group included preschool or school age children, as appropriate, would be needed.
Office #1	"Use zone" (definition) – needs to be clearer. Is this referring to CPSC requirements?	Definition deleted from proposed regulation.
Office #1	"Resilient surfacing" – Definition needs to be clearer, feel it needs to state exact inches so it could be understood.	Definition deleted from proposed regulation.
Office #1	The proposed exception to the educational and experience requirement for providers that would allow programmatic experience to be waived by completion of a curriculum approved by the department should be removed.	Deleted exception. Option exists for providers to present alternatives to evaluation by the department through the allowable variance process.
LI #2	I feel that limiting the qualifications to people who have had three months of experience is cutting out a group of "just Mom's" that I have found to make very good providers. I have no problem with the high school diploma part, but how will we document that for the many providers who attended school in another country?	The regulation was revised to require a high school diploma or equivalent. Guidance will be provided on what constitutes acceptable documentation. The requirement for three months of programmatic experience will be retained. Operating a family day home means operating a business without leaving home. There are very few business endeavors that do not require some prior experience. Nannies are required to have prior experience. Even jobs that do not involve work with people require prior experience, including clerical workers, painters and housekeepers. Family day home providers are more than "just Moms." Family day home providers have the ability to care for other people's children without neglecting their own. They are willing to spend long hours with other people's children and provide the security and protection needed. Licensed providers may care for between six and 12 children not including their own. Providers wishing to become licensed have the option of operating below the licensure threshold (five or fewer children) while gaining the required three months experience.
LI #1	I agree with licensee having HS diploma/G.E.D.; however can we accept their verbal statement as verification? Particularly the applicants who have been out of high school a while may have problems verifying graduation via their diploma.	See response above.
LI #1	Either really require [pre-licensure training] or make it a recommendation. The "not practical" part basically makes the standard unenforceable.	Deleted requirement since pre-licensure training is now required by General Procedures for Licensure 22 VAC 40-80.

LI # 1	What is the definition of a disability? Standard or definition needs to clarify who this includes i.e., kids with ADD or a school age children with mild motor delay or a child with food allergies, etc. Are they included?	Minor revision made to current definition of "child with special needs" that includes broad key indicators of which children are included.
LI #1	Does this mean they should be offered water during evening waking hours or they can have water should they wake up during the night?	Deleted requirement. Existing standard requires that water be available for drinking and offered on a regular basis to all children in care.
Office #1	Why not all household members have a TB test/screen, CPS and CRC are required? Why are we not consistent with CDC standards for 2 years prior? What was rationale of going from 90 days to 6 months?	Revised requirement to also require tuberculosis screening of all adult household members and to require the screening be completed at the time of hire for employees and for adult household members prior to contact with children.
Provider # 1	Cellular phones and the monthly fee is more than some providers can afford	Several options are proposed for a mechanism for making telephone calls to emergency personnel and parents whenever the caregiver leaves the home with the child. These options include change or a calling card in addition to cell phones. Additional contact options found in regulations from other states include pagers and two-way radios.
Provider # 1	I know of one death where a child was instantly killed falling from a swing set. It took place in a center. Mulch was in place and an aide was standing right there. It was a sad situation but accidents happen. I also heard of a center where a child chewed on mulch and the poison control center had to be contacted, as the mulch was coated with pesticide. I particularly am concerned with pea gravel under outside swing sets. I have found children that go out in the morning for preschool come home with gravel in their pockets from the playground. I've found this gravel throughout my house. I have toddler children and crawling children on the floor that I have to worry about the children putting gravel in their mouths thus creating a choking hazard. I've calculated the cost for placing mulch around the swing set in the back yard. The set is approximately 20 x 10 feet x 1 foot of mulch = 200	Deleted requirement for resilient surfacing under outdoor playground equipment.

	cubic feet of mulch divided by 3 cubic feet per pack = 67 bags, plus railroad ties to place around the swing set, and labor would cost approximately $500 by the time this is completed. This does not include mulch under my castle outside. I also worry about the railroad ties or wood that would have to go around the mulch to keep it in place. This to me would be more of a safety hazard. Some home daycare providers are single parent owners and the cost of such an expense would be prohibitive. Therefore, I do believe the state should provide grants to complete such work, should this be passed into law. I have a play set in my recreation room for kids to have exercise inside as well as outside. This set has been in place for seven years with no injuries up to this point. The parents like the idea and the children were using my couch as a jumping box before I put this set in place. Several of the parents bought similar sets for their own homes. Take this away from the inside recreation room and the children will jump and climb on the furniture. They will be falling, if they fall, on the same floor as the exercise set is on now. The age group I care for is physically active. They need an outlet on the inside as well as the outside. Had I thought this set would be harmful for the children I would never have purchased it. I utilized the Internet to determine what statistics were available regarding accidents with outside yard equipment. I was surprised that I could find very little on swing set injuries. There was one daycare provider that said there were 200,000 accidents of various types, but did not give her source or any details. There was actually more about the accidents using the wooden beds required by the state	

	of Virginia than swing sets.	
VAFCCA	"Resilient surfacing shall be under outside equipment with moving parts and climbing apparatus over 36 inches or 3 feet high. [Proposed] measurement is too low for outside equipment. Teeter-totters, chairs, and Little Tykes small slide are higher than 15". Our old rule and current center guidelines for toddlers and preschoolers require outside equipment higher than 36" must have resilient surfacing. Based on playground safety training, the 3 feet met their safety recommendation for climbing apparatus and equipment with moving parts…	See response above.
Office # 1	Resilient surfacing …over 15 ½ inches high – Could remove last statement. Be specific – actual depth and perimeter. Use zone shall….. Is there a formula? Not specific enough.	See response above.
Provider # 2	We feel this is too expensive an obligation. This will have to be redone each year. We have had no injuries since we are providers that stay with our children and supervise them. Home care providers have smaller numbers of children and can patrol the play areas better.	See response above.
Provider # 3	I have a problem with requiring "resilient surfacing" under outdoor play equipment. The proposed changes do not list exactly what this entails but I have been to trainings that cover this. It would be very cost prohibitive for me to do this. If this change is passed I would have to remove my swing set. I have talked to the providers in my association and no one has experienced a fall. You need to remember that in a Family Day Home we have a very small group of children and so it is much easier to watch and make sure they are using the equipment as it is meant. I believe that most injuries come from doing things that were not intended.	See response above.
Provider # 4	What is the amount of resilient surfacing that will be required under	See response above.

	playground equipment? I read about a CPSC Critical Height Table, but have no knowledge of it or its requirements.	
VAFCCA	A parental written authorization for diaper ointments and powders intended specifically for the diaper area of the child, to include the name of the ointments or powders to be used should a diaper rash occur, and kept in the child's file. Caregivers must administer diaper rash ointments on a situational needs basis and [treating] them differently from other nonprescription medications is important. A diaper rash may appear without warning when infants or toddlers change foods or perhaps were given an inappropriate food at home, i.e. a spicy food. The next day a rash appears after a stool. It is very important that a caregiver be able to administer a diaper ointment immediately should this occur to prevent a more serious rash or even an infection from developing. Expecting caregivers to update written authorization monthly for diaper rash medication is not realistic and an undue burden. If they forget, then it could not be used and it is important that diaper rash medication be administered when needed. Diaper rash medication is of a different category than other nonprescription medications. Perhaps some type of written agreement on what ointment should be administered should a rash develop and then a follow-up report to parent relating the information on the rash and what steps were taken by the caregiver.	Revised to require that for diaper ointment, sunscreen, and insect repellant, written parent authorization noting any known adverse reactions is to be obtained. The product is to be in the original container labeled with the child's name, the manufacturer's instructions for application are to be followed, the parents are to be informed immediately of any adverse reaction, and the product is not to be used beyond the expiration date. Providers should not assume responsibility for administering non-prescription medication or applying diaper ointment without written permission from parents. Research indicates there are many types of diaper rash and application of an over-the-counter ointment could have adverse effects on the health of a child. The American Academy of Pediatrics and other authorities (Centers for Disease Control, Mayo Clinic) say the best way to treat diaper rash is to prevent it from happening in the first place, by keeping babies' skin as clean and dry as possible.
Office # 1	Why does this need to be specified? Why not just say the first sentences? What about anti-diarrhea meds?	See response above.
Provider # 1	I can understand a prescription for an ointment for a yeast infection on diaper changing, but I can't understand an over the counter ointment needing a signature. It's a rarity that a child has a rash. Most of the ones I've seen have been	See response above.

	from yeast resulting from taking an antibiotic. I understand that the centers get around this law by placing in the contract the question of whether a parent wants ointments or powder applied.	
Provider # 2	We feel that diaper ointment being administered should be done with a verbal permission, such as a phone conversation with a parent who may be at work. We further feel than any types of topical ointments that may be required, sunscreens or diaper ointments should be allowed unless they are listed in the items that a child is allergic to or that a parent may deem necessary to exclude as a permissible item in their file.	See response above.
Provider # 3	I have a problem with the authorization for nonprescription medication. The public schools have to only have one authorization signed each year and then they notify parents when any medication is administered. This is how I have been handling this situation. As an example of the problem with the change, I have one 11 year old child who gets migraines. When he feels one coming on he has to take Motrin. He or I have no way to know child day one will start. If he takes it then, he is fine. If he had to wait for his parents to come he would get such a bad headache that he throws up. I know this because this is what happened before the doctor diagnosed him. I also see no need to have an authorization for diaper ointments or sunscreen. I would like to see the requirement written that all nonprescription medicine must be brought from home. That one authorization is good for the whole year but that a parent must be notified before any medicine is dispensed.	See response above.
LI # 2	Sunscreen and diaper ointment need a longer time frame than 1 month for parental permission.	See response above.
Provider # 4	I feel that the one month expiration date of this permission form is	See response above.

	unnecessary as sunscreen is needed over several months time (hopefully the sun will be shining throughout the summer. I currently have a blanket type permission form that the parents must sign before I administer sunscreen to their child. As well as granting me permission to apply a specific sunscreen, it asks the parent if there have been any adverse reactions to it. I feel that a yearly signing of this form is sufficient and creates less paperwork.	
LI # 2	Parental notification needs to add – any injury to the head.	Regulation was revised to require a child's parents be notified immediately of a head injury.
Provider # 5	Unplugging appliances is senseless when I use everything and the children are supervised.	For children's safety, the agency will continue to require that small electrical appliances, including, but not limited to, those identified in the standard, be unplugged when not in use.
VAFCCA	Have the standard include exclusion for the microwave oven. By writing the standard like that, Licensing Specialists (LS) may include the microwave as a small appliance. Clocks on microwaves would have to reset each time they are unplugged; unplugging and re-plugging could reduce the life of a microwave; and plugs are often located behind the microwave. Although they do not name the microwave, they say "but not limited to" which an LS could interpret to include the microwave oven. It is not unusual for LS's to write something up as a violation and make a statement such as "The standard does not say except……, the standard reads ……."	A microwave is not considered a small, electrical appliance.
Provider # 5	Fireplaces inspected when never used.	Licensing inspectors have no way of knowing whether or not a fireplace is ever used, consequently, the only way to ensure fireplaces are safe is to require documentation of annual fireplace inspections.
VAFCCA	Add language that specifies that if it is used as an alternate heating device, then it must be inspected. "If an alternate heating device, such as oil stoves, wood burning stoves, and fireplaces, associated chimneys, and ventilating devices are used as an alternate heating device, it shall be inspected annually by a heating and air	See response above.

	qualified inspector….” If an alternative heating device exists but is not employed as an alternate heating device, it should not be mandated that it be inspected. It is unnecessary and an undue financial burden. As it is now written, there are no exceptions.	
Provider # 1	I normally take 25-30 hours of training annually. So far this year, I have taken 23 hours. One county charges for its classes and you still can't get in. One county's classes are full with a portion of home daycare and mostly center trainees. Please figure out how the increased education is going to be accomplished before the law is put in place. I normally take more than the required number of hours required annually to remain licensed and have taken college coursed in day care as well as pre-education.	The Division of Licensing Programs is liberal in the types of training that are acceptable (see guidance document, "Licensing-15" on the Virginia Regulatory website at: http://townhall.virginia.gov/). In addition to instructor-led training, acceptable forms of training include conference workshops and distance learning such as Virginia Department of Social Services' (VDSS) video-based training programs; "Read-A-Book Program; and on-line training on child abuse and neglect; and playground safety. Self-study programs are acceptable if the sponsoring entity issues a certificate of completion to the trainee. Additional training opportunities are listed on the department's Training Information for Provider Success (TIPS) calendar. Each Licensing Office offers free provider training sessions two times each year and local departments of social services offer free training to family day home providers who accept child care subsidy payments.. The department, through its provider training series, offers approximately 160 classes per year at various locations around the state. Based on a maximum of 50 or 60 per class, the department has the capability to serve approximately 8800 providers annually. These classes are usually offered for $10 and provide 4 clock hours of training.
Provider # 6	Raising the hours of training is the way to raise the standard of care in Virginia. I got my CDA and it gave me confidence through knowledge.	
VAFCCA	Caregivers shall obtain a minimum of ten hours of training annually. Twelve hours of training may be very challenging, if not impossible, for people in more remote areas where training is not readily available. It may put an undue burden on some caregivers traveling to outside areas to achieve this training. It is more realistic to increase it to 8 or at the very most, 10 hours of training. This would	See response above.

	also leave room for caregivers to exceed standards by attaining additional training hours.	
Office # 1	We agree with this, however, we do foresee problems. Recommend more training offered and bigger groups allowed.	See response above.
Provider # 2	The system may be better served by requiring child care providers with fewer years experience taking more hours of continuing education, however, those with more than 3-5 years of experience and having taken the continuing education find much of the classes repetitive. Those more seasoned child care providers will be sufficiently educated with 6 hours of continuing education.	See response above.
Provider # 3	I like that you are increasing the training hours. I have averaged 14 hours of training over the last 8 years that I have been licensed. I was voluntary register before that. The only problem I am having is I am running out of classes. I have had to take duplicates. I think more classes need to be offered for veteran providers.	See response above.
Provider # 6	It is wonderful that CPR is going to be required. This will raise the standard for the whole state. Since most counties already require it, the rest of the state should have little problem adjusting. All providers should have CPR.	The current standards require a caregiver to have training in pediatric first aid and rescue breathing. For several years, first aid training has not included training in rescue breathing. The only way providers could meet the requirement for training in rescue breathing was to take CPR training so essentially the addition of this requirement is a technicality.
Provider # 6	It is too extreme a measure to require providers to be lifeguard certified. I question and cannot believe that a child care provider was watching any of the "*163 children that drowned in Virginia between January 1, 1989 and December 31, 1994."* Any child care provider, who is successful enough to own a pool, is very vigilant and attentive in the water. Providers with a pool will often say they feel so strict at the pool, that they wonder how children are having any fun while following all the rules. I spoke with the American Red Cross in my town and was told,	The regulation was revised to require that if a pool, lake, or other swimming area on or off the premises of the family day home has a water depth of more than two feet, an individual currently certified in basic water safety, community water safety, water safety instruction, or lifeguarding shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water. The certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

	"The Red Cross is not prepared to teach child care providers the lifeguard classes." I spoke with a Red Cross lifeguard instructor. She informed me that the lifeguard class is 80% first aid and CPR. The rest is swim skills. She said if providers have first aid and CPR, they should be able to care for a water accident until EMS arrives. The American Red Cross has a class just for this. It is called **Community Water Safety**. Its' purpose is to present information about various aquatic environments and their potential hazards and to inform the general public on how to safely participate in aquatic activities. The learning objectives are: • Learn to recognize and prevent aquatic emergencies • Understand what to do in an aquatic emergency • Understand self-help skills for aquatic emergencies Most providers who have pools do not allow diving and do not have a deep end. Older children and adults can stand up in the water. Most backyard pools are about 20 feet by 30 feet. Where does the need to swim 500 yards (20 lengths of a 25 meter pool, about 65-75 feet) come in? A provider can take about 5-7 steps around the deck or just jump in before needing to swim at all. I have this kind of pool. I do not get in the water when watching children. This enables me to see the whole pool and all the children at the same time. I also have at least one other adult. Most parents will stay and watch their children swim in the pool before they go home. Sometimes I have all the parents at the same time. If someone needs me, I can jump in and be next to them. I don't need to swim to get to them. All of the 12 children in my care have had at least 2 seasons of American Red Cross swim lessons. When they	

	could not swim, I had an approved life vest for each child. The amount of money in taking classes should not be considered when the safety of children is involved. Even though the Community Water Safety class is considerably less expensive, I truly believe it is the better way to cover “Water Safety” in the Minimum Standards. Requiring lifeguard certificates may set precedence where, in the future, providers may be asked to become an RN to administer medication or a teaching degree to do curriculum. It is requiring providers to have two professions. Use of lakes and streams should be prohibited. There is no way to protect children. There is no way to know depths or what animals may be residing in these waters. You can’t see through the water so you can’t see where to go to get the body.	
VAFCCA	Providers with pools only take children with access to pools at home. If Moms are afraid for the children’s safety, providers do not accept these children for care. Remove pools; rewrite “If a lake or other undefined swimming are has ….” This new regulation would make it necessary for a provider to go through Life Guard Certification Training in order to use her own back yard pool for swimming activities. The design of Life Guard certification is for use in much larger, public pools and lakes, where there can be several dozens of children needing supervision at one time. The training is usually quite strenuous and covers much more than a provider needs for the safe operation of her own pool. Most back yard pools are small and many do not exceed 4 feet deep. Life Guard training is not appropriate for back yard pools.	See response above.

	However, if the intention of this new regulation is training, Water Safety training would be much more appropriate for providers who desire to use their back yard swimming pools.	
Office #1	Who in a family day home will have a lifeguard certificate?	See response above.
Provider # 7	Concerning swimming pools deeper than 2 feet: This new regulation would make it necessary for a provider to go through Life Guard Training in order to use her back yard pool. I believe this is inappropriate training for the situation. Life Guard training is very vigorous and covers much more than a provider needs to experience for the safe operation of her pool. Water Safety training, on the other hand, would be very appropriate. It covers very practical training and information that a provider would need to safely operate her pool.	See response above.
Provider # 6	Hot tubs should never be used by children. The water temperature is too hot for children and can cause serious health problems.	Agency agrees.
Provider # 6	Portable wading pools should be allowed. Children spend more awake hours of the day with providers than parents. Every child remembers the hot days in the little pool. It is easy to take proper care of these pools. The little pools are used by schools everyday. Schools use them for beach day. Non-potty-trained children should have their own pool (one pool, one child), since they are so inexpensive. If soiled, take the child out, change the child and sanitize the pool.	Revised standard to allow wading pools. Added requirements for portable wading pools without integral filter systems to be: 1. Emptied after use by each group of children, rinsed, and filled with clean water, or more frequently as necessary; and 2. After each day's use, emptied, sanitized, and stored in a position to keep them clean and dry. Added that portable wading pools shall not be used by children who are not potty trained.
VAFCCA	"Wading pools may only be used for activities that do not allow children to sit in the water." Caregivers use wading pools for dramatic play or science activities such as duck ponds (magnetic fishing), sink or float, etc. Eliminating them will unnecessarily eliminate dramatic play activities. Or preferably, "Wading pools must be cleaned and sanitized prior to	See response above.

	each use; children not potty taught must wear "swimmer" pull-ups when in wading pools. A caregiver must be within sight AND sound of children when wading pools are in use. Justification for keeping wading pools for wading activities as well: Sprinklers often frighten young toddlers under two because they do not like water in their face and some dwellings are not conducive to sprinklers. Swimming pull-ups are available to reduce the risk of contamination and caregivers can sanitize wading pools.	
LI # 1	I'm not certain how I feel about this. My personal preference is for family day homes to use the sprinkler, on the other hand, particularly for older children, the wading pools are a good way to cool off. Why not just prohibit these for younger children? Maybe only allow 4 y/o & above? The "slip & slides" that people use are pretty dangerous.	See response above.
Provider # 4	I would like to comment on the prohibition of portable wading pools. I only provide care for children that are potty trained and although I understand the concern about sanitation, I feel that older, potty trained children will be missing out. Can an addition be made that states portable wading pools must be cleaned out and sanitized daily and may only be used by children that are potty trained.	See response above.
VAFCCA	Change definition of "infant" from "birth to 16 months" to "birth through to 12 month"; and "toddler" from 16 months to 24 months to "12 months to 24 months." The current definition does not correspond to the developmental stages of children in these age groups in licensed child care environments. Because children are in child care environments, the states of development move quicker as they tend to develop at a faster pace. A child 1 year of age, most likely, is walking unassisted or walking by holding a caregiver's	The point system for staffing currently in effect provides the maximum protection for children and the agency does not propose to change it.

	hand. They are eating at the table or in highchairs with the assistance only in assuring food is presented in a safe form. Exposure to storytelling, music, and older children increases language development; they are using words by age one and language is often well developed by 16 months. Thus, the staffing level needed to assure the supervision and protection during the first 24 months has also changed. The staffing level necessary to assure appropriate supervision and protection necessary for an 8 week old and that of a 12 month old is very different. Changing the definition of an infant to "birth through 12 months" would not place toddlers at risk as their needs have changed. It would still limit homes to 4 infants during the younger, developmental stages that require the greater assistance and it would continue to assure the supervision and protection needed during the first 2 years of development, while assisting parents in finding more available, quality child care for children over 12 months.	
Provider # 1	In regard to your changing the toddler from 16 months to 12 months, it is unclear whether the number of points assigned to the child would go down to 3 points at months versus 3 points at 16 months that is currently the law. This needs to be worded very carefully if this is your intention.	See response above.
Provider # 2	If the point system is changed to infants being 0-12 months and the toddlers 12 months to 3 years, how will that change the point system? We feel that is a good thing to make that change, provided the change is not detrimental to the over-all point system. 0-12 months should count as 4 points and 12-24 months should count as 3 points.	See response above.
Provider # 3	I am very much in favor of changing the classification of infants to birth through 12 months. Another point not covered in these changes is the points for each age group. I would	See response above.

	like to see the following assignments: Birth through 12 months – 4 points 13 months through 23 months – 3 points 24 months through 4 years – 2 points	
VAFCCA	Rewrite definition [of serious injury] changing the wording from "foreign object lodged" to "foreign object protruding from eye, nose, ear, or other body orifice. " The way it reads, if a child put a pebble, bean, acorn, etc, in the nose, ear, or other body orifice, it would be considered a "serious injury" which would really be a "medical emergency." This occurs frequently and it has not been considered a "serious injury in the past. Sand in a child's eyes also happens frequently and is not a serious injury but it is a lodged foreign object. Is it the intention to elevate these types of occurrences? National Safety Council does not define these as "serious injuries." The object would need to be "protruding" to be considered a "serious injury."	Retain proposed definition. Use of the term "lodged" suggests that foreign objects are positioned in a manner that would require medical attention.
VAFCCA	Be specific in the size of a choking hazard. "Toys and toy parts accessible to children under age three must not fit into the mouth of a toilet paper roll." Does the LS plan to see if the object fits inside of a child's mouth? The standard needs to be more exact in the size of the toys. National Safety Council and American Heart use the standard toilet paper roll as a measuring device. Every home has them. They say "anything small enough to fit in a toilet paper roll" is a choking risk to children under 3.	Revised regulation to require that objects less than 1 1/4 inches in diameter and less than two inches in length be kept out of reach of children under age 3.
VAFCCA	Rewrite the standard with a specific hazard or delete it. It leaves too much open to interpretation. What all exactly are they referring to here? What meets the definition of a "catch" point or a "crush" point, and so on? This standard is too vague and open to an individual's interpretation. Currently, caregivers make every attempt to eliminate all playground hazards because they	Proposed standard rewritten as follows: "Outdoor play equipment shall meet the following requirements: 1. "S" hooks shall be tightly closed; 2. Swings shall have flexible seats of rubber, canvas, or nylon; 3. Non-flexible molded seats shall be used only when a staff member stays within arm's length of any hard molded swing in use and is positioned to see and protect other children who might walk into the path of the swing;

	do not want children injured.	4. Openings above the ground that are closed on all sides shall be smaller than 3½ inches or larger than nine inches to prevent head entrapment hazards; 5. Ropes, loops or any hanging apparatus that might entrap, close, or tighten upon a child shall not be used; 6. Equipment with moving parts that might pinch or crush children's hands or fingers shall not be used unless they have guards or covers; and 7. Platforms and ramps over 30 inches high shall have been designed with guardrails or barriers to prevent falls."
VAFCCA	Rewrite as "Infants and toddlers must be offered several opportunities throughout the day to experience a diversity of play spaces as well as the opportunity to creep, toddle and walk. When in a crib, high chair or other confining structure or piece of equipment is in use, activities must be ongoing or available to stimulate the child." Although the intent of the regulation is certainly understandable and admirable, placing specific time-restraints on how we work with children is not the solution. The only way to be sure a caregiver is not breaking the ½ hour rule and thus be in violation of the standard, is to set timers to go off so we know when to rotate children? This is not the appropriate way to insure a variety of play to enhance the development of children. Often, especially in the summer, outside play is an hour or longer for older children, depending on the weather. When weather allows, crafts, science activities and story time are frequently set up outside. When toddlers and infants are awake, they should be outside as well. Depending on the time and length of the nap, this could mean outside play for more than ½ hour. Not all family childcare homes have assistants; therefore, it is not possible to separate the children, sending the non-walking toddlers inside for 1 hour at the end of a ½ hour, which is what this standard	The intent of this requirement is to assure that children spend a significant time outside of a confined space if not sleeping or eating. An exception was added for mealtime. The second sentence is shortened to read, "The intervening time period between confinements must be at least one hour." Although strict adherence to the established times may not be possible, the times should trigger movement of infants and toddlers in order to assure a diversity of play spaces and experiences which are critical for brain development. Opportunities for stimulation, interaction and play are covered elsewhere in the regulation.

	would mean. Since it is not realistic to expect outside play to be scheduled around sleeping infants, this standard would result in restricting outside play to ½ hour and then everyone would need to come inside for 1 hour because "the intervening time periods between periods of confinement is at least 1 hour." This means floor time without restrictions around them for 1 hour. Our schedules cannot always allow this. Play yards offer outside floor time for creeping, crawling, toddling. In addition, we can place walk-around toys in the play yards. These outside experiences and the fresh air are important for their development as well; placing time restrictions are not appropriate and place unrealistic expectations on caregivers. Children often take more than ½ hour to eat, especially children with reflux issues. It typically takes longer than ½ hour to feed (holding is confining) an infant and then they would need to be in a chair or something confining while they ate the cereal or other prepared foods. In addition, infants who hold their own bottle often spend longer than ½ hour drinking and then it is still necessary to feed them. This means time in a confining piece of equipment. Toddlers are often at the table in a confining chair or high chair for longer than ½ hour to eat. What should we do at the end of this ½ hour – take the food away? Slow eaters often take as much as an hour to complete the meal. Infants and toddlers do need to receive adequate stimulation allowing opportunities to experience a diversity of ply spaces and the opportunity to creep, crawl, toddle and walk but WITHOUT placing time restraints on caregivers as to when to offer these opportunities.	
Office # 1	Disagree. Wording is difficult. Needs to word like CDC standard 461.4.e	See response above.

Provider # 2	We feel this will cause more providers not to take infants and we already have a problem placing infants. An infant playing on the floor with older children in a family child care is not safer than an infant in a play yard. Possibly an infant being taken out of the confined area every hour or two for 30 minutes or moving them from one environment to another would be a more appropriate solution.	See response above.
Provider # 3	There is a major safety problem with the section on confinement time. Most providers that keep infants also have older children. I would not want my newborn on the floor with 2 or 3 year olds playing nearby. Since I work alone I have to keep the children together to adequately watch all of them. I always moved my infants around from say carrier to swing to play pen. I made sure they had things to do while they were confined. I also made sure that they got some floor time. This was usually during the bigger children's lunch or when they were napping. But when they were approximately 6 months they got more floor time and by the time they were mobile they were hardly ever confined. I think this needs to be rewritten to allow for different ages of infants.	See response above.
Provider # 8	I agree with all regulations except the feeding time allowed for children.	See response above.
VAFCCA	No milk except breast milk or iron-fortified formula shall be given to children under 12 months of age, unless otherwise instructed by a child's physician in writing. USDA says 12 months of age can go from formula to milk.	Proposed requirement withdrawn. Already included is the requirement that infant formula be prepared according to the manufacturer's or physician's instructions.
Office # 1	Don't agree with. Taking decision making from parents. If parent calls doctor and is advised to try another formula she then has to go to the doctor and get it in writing?	See response above.
Provider # 3	The rule on milk for infants may need to be rewritten depending on what ages you decide to use for infants. This rule is fine if infants are birth to 12 months but needs to be modified if it includes children	See response above.

	from 13 months to 16 months. Agree with rest of changes.	
VAFCCA	Take out the word disposable. A one day's emergency supply of bottles, nipples and commercial formulas or breast milk appropriate for the children in care shall be maintained in the family day home. Not all infants will drink from disposable bottles and nipples. They are attached to their own and do not want to change. Children on breast milk may not be willing to drink commercial formulas. As long as you have a sufficient supply of bottles, nipples and formula or breast milk for one day, why would they need to be disposable or commercial formula?	Proposed requirement withdrawn. Unnecessary. Has potential to raise other issues, including adequate and appropriate storage, identification, return to parents when no longer needed.
VAFCCA	Delete the wording "installed securely at the top or bottom of open stairways" and change the word "where" to "when." Rewrite as: "Protective barriers including but not limited to safety gates shall be installed securely to prevent access to open stairways on the floor when the stairways are accessible to children under two years of age and children over two years of age that are not developmentally ready to climb or descend stairs without supervision." A caregiver may have found it necessary to use gates that fit to doorways instead of at the top or bottom of the steps since not all stairways allow for the installation of gates (may not be able to install at steps due to type of railing or the wall structure). The standard states "installed securely at the tip or bottom of open stairways…." This might be interpreted by LS as not meeting the standard as written. The gate placed in the doorways means stepping over the gates to move from room to room. The toddler or infant may be in a swing, a safety chair, stationary exercisers, or high chair eating. During this period, the steps would not be accessible and therefore the gates not necessary. The LS may	The proposed regulation was reworded to state that children under two years of age and children over two years of age that are not developmentally ready to climb or descend stairs without supervision shall not have access to stairs.

	interpret the standard to mean "at all times", write it up as out of compliance stating, "The standard does not say except when…., it says …….” Yet the children are safe from harm, which is the intent of our standards – not to make caregiver's days more difficult. The standards states "under two years of age" which would include a new born or infant that is not crawling yet. Again, a LS may write it up as out of compliance stating, "The standard does not say except for….., it says ……..”	
VAFCCA	Eliminate the "operated by a foot pedal (step can). Rewrite as: "Soiled disposable diapers and wipes shall be discarded in a lined container, with a tight fitting lid. If the lid is handled, it shall be disinfected by lightly spraying with a germicidal or water and chlorine bleach solution each time it is used." The Diaper Genie® is a bacterially safe alternate diaper receptacle with the addition to the standard that the lid is sterilized with a bleach solution, each time it is used. This system does not allow the diapers to fall out of the container when tilted or dumped, this contaminating the surrounding area. You can sanitize the lid and the diaper-changing surface at the same time. Many of the foot pedal cans have locks on them and if the mechanism is used, the surface becomes contaminated just like the Diaper Genie®.	The risk of transmission of infectious organisms is high in the diapering process. Diapering practices that require increased manipulation of diapers and paraphernalia present increased opportunities for contamination of the caregiver's hands, the child, the diapering surface and surrounding objects. Not only must the Diaper Genie® be opened by hand, an inner rim must be twisted in order to seal the soiled diaper into the plastic barrier. The tip-proof feature is a benefit, but the number of hand contacts required to operated the system, including emptying it, increase the likelihood of contamination, even with the best intentions and planning on the part of providers. Lined containers, with tight fitting lids, operated by foot pedals, will continue to be required.
VAFCCA	Either add the words "when not in use" at the beginning or add when more than one child is using formula. "When not being used, prepared infant formula shall be labeled with the individual child's name and kept in the refrigerator when more than one child is using formula." If there is only one child in the home using formula, it should not be necessary to label the bottle. Many caregivers receive violations	Standard reworded to read as follows: "Bottles shall be refrigerated and labeled with the child's name, if more than one infant is in care."

	because they do not realize with one infant, the LS will still require them to label the bottle because the standard does not say "if more than one child is in care."	
Office # 1	Would like it to read "bottles."	See response above.
Office # 1	What is the rationale?	Hanging tablecloths can be as hazardous as other hanging objects. The potential exists for them to yanked by infants, toddlers and preschool children to access what might be hot objects or harmful substances on the table. Children could be scalded or otherwise injured.
Office # 1	Would like to know what other regions are doing. Take out the 30 feet and let us continue to make the decision if not going to put fence on all of playgrounds.	The determination of whether a hazard exists near an outdoor play area will continue to be made by licensing inspectors. This standard does not require that all outdoor play areas be fenced; only those located within 30 feet of hazards.
Provider # 2	These areas should be judged hazards by our local licensing specialist. An area that might be construed hazardous in one area may not be so by another. We understand the need for uniformity in the code, however, some locals may need to be judged according to the neighborhood that housed the family child care home. Again, we generally have smaller numbers of children to police and have better control. A home that is on a dead end street and the play area is within 30 feet of the cul-de-sac is much less likely to be a hazard than a child care facility on a main thoroughfare within 30 feet of the busy street.	See response above.
Provider # 3	I have a major problem with the barrier. I have a large front yard and driveway. There is no way I would put a four-foot high barrier 30 feet from the road across my driveway or front yard. The driveway is the only hard surface that the children have to play on. They would lose the basketball goal and the place where they learn to ride first push toys, then tricycles and finally bikes. The children know how far they can go toward the road. The preschoolers are allowed to go only more than 35' from the road. I also have school-agers and they are allowed a little closer depending on their age (most of mine are 10 to 12 years old).	Procedures are in place for requesting a waiver (allowable variance) if this requirement presents a hardship.

	I think you need to keep in mind that this business is run from our homes – homes that one day may have to be sold. I think it would be very hard to sell a home with a barrier 30' from the road. Once again, please remember I am not running a center. I have a small group and very little turnover. The children quickly learn the rules and I have no problem with the children following them. (I only average 1 to 2 new children a year. The first month or so I watch the new ones very carefully to make sure they learn the rules and are acting safely. The other children also help with this. They know what is allowed and what isn't and will let their new friend know when they are breaking rules.)	
Office # 1	What is considered usable? Is this the same as if using personal beds to sleep -- is that area considered usable, or do we count open floor space? So we measure the entire kitchen because they sit at the table to eat?	Requirements for minimum indoor usable space have been deleted.
Provider # 2	I have been a child care provider for 7 years and have not had 25 square feet of usable space for each child and no one has developed any respiratory problems, however, I am not disputing the "experts" opinion. I have approximately 22 square feet per child and we have extra room. There is plenty of room to move and play. It may be better evaluated by the usable area of a room as to the square feet of a space. You can have a small amount of square footage that is better situated for play than a lot of square footage that is "chopped up" and unable to be utilized that well.	See response above.
Provider # 3	I think that halls should definitely be included in the usable floor space. This business is in a home and the halls make great places to play. It is not like in a center or business where halls are mainly for getting from one place to the next. My entry hall is the only floor without carpet so it makes a great raceway for cars, etc. The downstairs hall	See response above.

	dead-ends into the nap room so it is a great place to hide or just to get away from other people. I have some concern about the 25 square feet per child. This is not a problem in my house but I worry about people who live in the city. Their houses may not be as large and I would hate to see people get out of licensed childcare because of a space problem. A survey of providers to see how many this is a problem for might be a good idea.	
Office # 1	Why can they have plastic [swing seats]? Not allowed in child day center standards.	The regulation was reworded to allow use of non-flexible molded swing seats when a staff member stays within arm's length of any hard molded swing in use and is positioned to see and protect other children who might walk into the path of the swing.
VAFCCA	Recommendation: (g) Clean play yards weekly or more often if needed; and (h) follow the 25 sq. ft. space requirement as stated in the standards for occupancy in play yards. This may make sense for playpens due to the size and structure. The play yards, on the other hand, are much larger and can be set up to allow 30 sq. ft. of play. This structure allows ample space for the child as well as age and developmentally appropriate toys; you can construct different geometric shapes with play yards. A play yard is a "safe" play area, and not a confining structure, when used outside. In addition, more than one play yard can be joined together to create an even larger playground. Two play yards can create as much as 75 sq. ft. of space. These are necessary to allow us to take young children, who are not walking outside to take advantage of fresh air and sunshine. Play yards have no bottom and the sides are of a honeycomb type structure. Daily cleaning and sanitizing is not necessary, and would be an undue burden due to the honeycomb structure. Weekly	References to "play yards" changed "play pens."

	cleaning, as needed, would be more appropriate.	
Office # 1	Play yards…. Clarify.	See response above.
Office # 1	Some type of monitor [for overnight care]. Needs to include the T/A about this.	The regulation was reworded as follows: "When nighttime care is provided, caregivers shall remain awake until all children are asleep and shall sleep on the same floor level as the children in care. A baby monitor shall be used if the caregiver is not sleeping in the room with the child or in a room adjacent to the room where the child is sleeping."
Provider # 3	For overnight care I think you need to add the caregiver shall sleep on the same floor OR have a baby monitor. Many homes are not designed with all bedrooms on the same floor.	See response above.
Office # 1	Feel this should be removed [provider may permit self-administration of a medication by a child in care if...]. Will open up Pandora's box. Parents will come in with a three-year old and a statement allowing them to administer.	The regulation was reworded to delete allowing a child to self-administer medications.
Office # 1	If a provider has to use this person [a competent adult to be available to provide temporary child care in case of a medical emergency], do they have to have the background checks on this person? Technically, we feel the standards say 21 days to get info. Does this emergency person have to have TB too? Could their plan be that parents are called to come pick up children?	The emergency caregiver is not required to have background checks or a TB screening. This person does not have to meet education and experience requirements. The regulation was reworded to require this person to be a "responsible person who is 18 years of age or older and is able to arrive within 10 minutes for emergency back-up care until the children can be picked up by their parents."
Provider # 4	I would like to seek some clarification as to the new requirement in "Emergency Preparedness and Procedures." Would the emergency caregiver be required to meet the same requirements of a substitute provider including the background checks, TB test, and the educational minimums that are proposed to be changed?	See response above.
LI # 1	I assume this person [a competent adult to be available to provide temporary child care in case of a	See response above.

	medical emergency] must meet all the other fdh requirements – including annual training?	
Provider # 3	I love the addition of the "Emergency Preparedness and Procedures." That is one thing I had never thought of. Great idea.	
Office # 1	What is a permanent wading pool? Standards currently say wading pools are emptied each day. 4.38	A permanent wading pool is one that is not portable. (See requirements for portable wading pools)
Office # 1	Does this apply if the pool is not used by the day care children? If not how far do we have to go? Some locations may not have a USBC to follow? How do they access this?	The regulation was revised to require that a pool must be inaccessible to children whether it is used or not. Pools pose a safety hazard for children in care, if not all children.
Office # 1	Why do we have to have doctor's instructions [on actions to take in an emergency related to the allergy or intolerance….]? Is this not up to the parents, too?	Requirement for a physician's signature and date on written instructions is deleted.
Provider # 4	I am curious as to why there is the need to make the change that documentation of immunization be provided by the first day of attendance. If a child is transferring from another center or provider, this is less of an issue than if it is the first time a child is in care. From experience I know that it is not always practical for these records to be immediately available. Some doctors offices cannot readily produce this file for a family, often a doctors visit is required and that may not always be able to be scheduled immediately (most often due to the doctors office rather than the family's schedule).	§ 32.1-46 of the Code of Virginia requires family day homes to comply with immunization requirements set forth in the State Board of Health Regulations for the Immunization of School Children. This change aligns immunization requirements for family day homes with those regulations.
Office # 1	Can we accept a copy of the immunization card? Standards say immunizations must be signed and dated.	This change does not mean a change in how compliance is determined.
LI # 1	This infers to me that we will have to check the specific immunizations. Hope not—we should continue to check for immunization information that is signed/dated by the MD, nurse designee, etc., but we don't check the specific "shots" and should not be doing the job of the health dept or the MD. If a child is behind on shots, for any number of reasons, it is the MD, or whoever	See response above.

	the child sees for medical care, who takes action. The health department does their audit and it should be kept that way. So why not change the language to "current documentation of immunizations…" and that would clear up any question about this standard.	
Office # 1	Would like to see it [fixed adult to child ratios] removed. All of the FDHs we have do mixed age grouping.	References to "fixed adult to child ratios" have been deleted from the regulation.
Office # 1	Remove [requirement for Child Protective Services Central Registry clearance conducted no later than January 31, 1994]. No longer applies	Requirement deleted.
Office # 1	Is it [Disinfectants… stored in areas inaccessible to children or in a cabinet or drawer with child-resistant locks] going to remain inaccessible or will you put "locked up" only? Currently this is left up to the L.I.	Regulation reworded to require that hazardous substances be inaccessible to children.
Office # 1	We are not supposed to cite [lack of smoke detectors and fire extinguishers]. Will they be taken out?	Requirements have been deleted.
Office # 1	[Sharp kitchen utensils shall be] Inaccessible? What is it?	Inaccessible is defined as "not capable of being entered, reached, or used."
Office # 1	Do rest mats need to have linens?	Yes.
Office # 1	Why soap and water and disinfecting by light spraying [for diaper changing surface]?	This standard has been revised as follows: "the diapering surface shall be cleaned and sanitized after each use with a solution consisting of one tablespoon of bleach to one quart of water. "Cleaning and disinfecting are separate processes. Definitions have been added for "cleaned" and "sanitized." According to the Centers for Disease Control, "Routine cleaning with soap and water is the most useful method of removing germs from surfaces in the child care setting."…However, some items and surfaces should receive an additional step, disinfection, to kill germs after cleaning with soap and rinsing." Various bacteria respond differently to cleaning and sanitizing agents. (Research: American Public Health Association; American Academy of Pediatrics; National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs.
Office # 1	Can infants hold their own bottles while lying down?	No. The current standard prohibits drinking or eating while lying down.
Voices for Virginia's	We recommend child to staff ratios be decreased so that for infants the	Agency does not propose changing the ratio requirements or requirements on group size,

Children	ratio would be 3:1, for toddlers the ratio would be 4:1, etc… We recommend that there be increased education and training required for providers and the establishment of limits on group size.	but has proposed increasing the requirements for supervision. The proposed regulation increases the training and education for caregivers.
Provider # 2	First of all, the very first time we were contacted about the NOIRA (maybe a year ago?) I could not find it on the computer. The directions for finding it were not complete at all. I made several calls and finally found someone that had the rest of the directions to get to the document…. I have friends that don't have computers in which to find these documents. Some of my provider friends could get to the site (after we got the purple sheet of paper this time), but their computer could not produce it to be printed. We believe it would be better if like in previous years this document (as important as it is that all of us be able to read it) would be mailed to us.	These were issues with the Townhall website over which this agency has no control. The agency mailed cards to all licensed family day home providers to inform them of the Notice of Intended Regulatory Action. It is cost-prohibitive to mail the Townhall forms to all providers.
Provider # 3	I would first like to comment on the way the proposed changes were made accessible to providers. I received my letter of notification about mid-way through the comment period. I know another provider who got hers at the beginning. I'm not sure why mine was so late. Then when I tried to download the changes I could get all the way to the downloading but my computer could not read the file. I tried several times. I finally asked my specialist for a copy. I have talked to numerous people and not one was able to download it. And that was after about 4 phone calls. Also not all providers have access to the Internet. I was a provider when the revisions were done in 1993. I remember receiving hard copies of proposed changes. I feel with this major of a revision that a hard copy should be sent to all providers and the comment period should be extended. Some of these changes could have significant	See response above.

	impact on providers and may even force some to quit or start doing childcare under the table. This is something I would hate to see. There is not enough quality childcare as it is and I would hate to lose what there is.	
Provider # 2	A family child care provider has closer contact with the parent than a child care center for the most part. We know the changes that our parents make as part of their career changes and we have an update sheet that they complete for that purpose.	The regulation was revised to require the provider to "annually" review the emergency contact information with the parent instead of reviewing every six months.
Provider # 3	I already have the parents review the emergency contacts each year. I tie this to their tax information. I give out the "daycare information check" in January and when it is returned they get their tax receipt. I have had great success with this. I tried the first year with no incentive and hardly got any back. I feel that every six months is too much. I feel once a year is fine.	See response above.
Provider # 5	Why does there always have to be so many regulations and paperwork? I left working in a day care center because the paperwork took away from the kids. Instead of planning fun activities we were burdened with this and that. Most of us in family daycare like the fact that we can have less children, a more relaxed atmosphere and more time to make it a quality learning experience.	
Provider # 6	I am noticing a trend with the notion of children being raised in a home setting changing into the notion of the home becoming a center setting. Please stay sensitive to the differences between a center and home setting. There are situations where a child needs to be in a home setting and some where a child needs to be in a center. It is important to give parents the choice of both.	
Provider # 1	It has been my privilege over the years to know quite a few home child care providers. For the most part, the providers left professional careers to be home with their own	

	children, and decided they could provide a service to their community by providing quality day care. I have noticed that many of the center providers are aged 19 and slightly above. There is a steady turnover in the centers. Children need to have a loving, maternal, constant environment to survive and become whole and productive beings. Home daycare with experienced mothers for the most part fulfills this objective.	
LI # 2	In general, I think that parts of these standards have taken the home out of Family Day Home and turned them into mini centers. Has anyone though of 2 types of Licenses/Standards like some other states do (Delaware?)? There could be one set /license for a large FDH (9-12 children) and another for Small FDH (6-8).	The agency has no statutory authority to license two types of family day homes.
Provider # 4	I need clarification. Can a blanket be placed over a baby?	A blanket can be placed over a baby. To reduce the risk of suffocation, the infant should be placed at the foot of the crib with a thin blanket tucked around the crib mattress, reaching only as far as the infant's chest.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The authority and rights of parents are strengthened by the proposed regulation that adds requirements for the family day home provider to notify the parents about issues involving their children, to obtain written permission for swimming, and to involve the parents more in making decisions about the care their children receive.

The proposed regulation encourages economic self-sufficiency of families by establishing requirements that provide a level of out-of-home care that is safe, healthy and conducive to the needs of children. Research shows quality child care can provide the foundation for a child's later school achievement and economic productivity. By increasing the number of annual training hours for a caregiver and requiring a barrier be constructed if the outside play area is within 30 feet of a hazard, this regulation may raise the costs of child care and decrease a family's disposable income.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22 VAC 40-110 -10 Definitions	22 VAC 40-111-10 Definitions		The following new terms and their meanings are added in order to clarify their use in the body of the regulation: body fluids, cleaned, evacuation, high school program completion or the equivalent, nighttime care, preschool, programmatic experience, relocation, residence, sanitized, serious injury, shelter-in-place, substitute provider, and toddler. The following words and terms and their definitions were deleted: Child Protective Services Central Registry, cooling device, family day home standards, licensee, major accident or major injury, minor accident or minor injury, and ventilating device. The definitions are changed for clarity for the following terms: age-appropriate, child, child with special needs, commissioner, department's representative, family day home, family day home assistant, family day home provider, and physician.
22 VAC 40-110 -20 and 30 Legal base	22 VAC 40-111-20. Legal base.		Section updated to include current section numbers from the Code of Virginia.
	22 VAC 40-111-30. Operational responsibilities.		Several requirements are added to clarify the duties and expectations of the provider including: being responsible for the day-to-day operation of the home, ensuring compliance with the standards, the terms of the license, and the home's policies that were disclosed to parents; complying with the regulations, General Procedures and Information

			for Licensure and Background Checks for Child Welfare Agencies. Also added were requirements for providers in the Code of Virginia including: giving evidence of financial responsibility; ensuring that the home's activities, services, and facilities are conducive to the welfare of children in care; and ensuring that any advertising is not misleading or deceptive.
22 VAC 40-110-110. Capacity	22 VAC 40-111-40. Capacity.	The licensee shall ensure that the total number of children receiving care at any one time does not exceed the maximum licensed capacity of the home. When at least one child receives care for compensation, all children, exclusive of the provider's own children and children who reside in the home, who are in the care and supervision of a care giver shall be included in the licensed capacity.	To help ensure adequate supervision of children and for consistency of enforcement, added factors for which the department may restrict the number and ages of children in care at one time to less than the maximum group size of 12 children including the provider's responsibility to supervise children 13 years of age or older who are not the provider's own children or who do not reside in the home, availability of adequate space, the provider's responsibility to care for another individual who may require special attention or care, or the issuance of a special order to limit capacity.
	22 VAC 40-111-50. General record keeping.		For emergency preparedness purposes, added requirements for the family day home to keep a written record of children in attendance each day. To ensure parent's right to information, added requirement that children's records be made available to a child's parent upon request, unless otherwise ordered by the court. For consistency with licensing regulations for other programs and for appeal purposes, added a requirement that records and reports on children, caregivers, and household members required by this chapter be maintained and made accessible to the department's representative for two years.
22 VAV 40-110-1360. Information.	22 VAC 40-111-60. Children's records.		To help ensure children's safety, to strengthen parent's authority, and to facilitate the inspection process, requirements were added for the provider to maintain the following in the child's record: documentation of the proof of the child's age and identity and

			the names and addresses of previous child day care and schools; parent's written authorization if the child is to participate in swimming or wading activities; parent's special instructions to the provider including, but not limited to, exception to an infant's sleeping position or exception to an infant's being fed on demand; and the parent's acknowledgement of the annual review of the child's emergency contact information.
22 VAC 40-110-1170. Accident reports. 22 VAC 40-110-1180. Records. 22 VAC 40-110-1360. Information.	22 VAC 40-111-70. Written information for parents.		To strengthen the authority and rights of parents, this section was added. It incorporates current requirements for written agreements and notifications and adds that parents are to be informed of: the home's operating schedule, telephone number where a message can be left, fees and payment plans, policies for the administration of medication, children's check in and check out procedures, whether or not there is liability insurance in effect on the family day home operation (pursuant to § 63.2-1809.1 of the Code of Virginia), the requirement for paid caregivers to report suspected child abuse and neglect, policy for the provision of food, whether or not there is a pet or animal in the home, provisions of the home's emergency preparedness and response plan; the notifications the home is required to give parents, termination of care policies, and the address of the department's website with a note that the regulation and information on the home can be obtained from the website.
	22 VAC 40-111-80. Proof of age and identity; record of child care and schools.		Added the requirement contained in § 63.2-1809 of the Code that within seven business days of the child's first day of attendance at the family day home, the provider shall obtain from the parent: 1. Verification of the identity and age of the child; and 2. Name and location of previous day care programs and schools the child has attended.
22 VAC 40-110-1120 Timing and frequency of medical reports	22 VAC 40-111-90. Immunizations for children.	Each child accepted for care shall obtain a physical examination and immunization record by or under the direction of	To comply with requirements of § 32.1-46 of the Code of Virginia, the proposed regulation requires that before a child may attend the family day home, the provider shall obtain

		a licensed physician prior to enrollment (as outlined below) or within 30 days after enrollment: 1. Within 60 days prior to enrollment for children six months of age or younger; 2. Ninety days prior to enrollment for children aged seven months through 18 months; 3. Six months prior to enrollment for children aged 19 months through 24 months; 4. Twelve months prior to enrollment for children two years of age through five years of age; and 5. Twenty-four months prior to enrollment for children six years of age and above.	documentation that the child has been adequately immunized according to State Board of Health regulations. A child whose immunizations are incomplete may attend the family day home if the provider obtains documentation signed by a licensed physician, the physician's designee, or an official of a local health department that: 1. The child has received at least one dose of the required immunizations; and 2. There is a schedule for completion of the required immunizations within 90 days of the child's first day of attendance at the family day home.
	22 VAC 40-111-120. Caregiver records.		For emergency preparedness purposes and to facilitate the inspection process, added that the provider maintain a record on each caregiver that includes: name; address; verification of age; job title; date of employment or volunteering; name, address, and telephone number of a person to contact in an emergency; documentation of two reference checks (for caregivers hired after the effective date of the regulation), background check results, documentation of arrivals and departures of substitute providers; TB screening; and education and training.
22 VAC-110-80. First Aid Certification.	22 VAC 40-111-140. Qualifications and requirements for providers and substitute providers.	Providers and substitute providers shall obtain pediatric first aid certification, including rescue breathing and first aid for choking, within six months of licensure or employment or by May 31, 1994, if currently licensed and shall maintain a current pediatric first aid certificate endorsed by or from: 1. The American Red Cross; 2. The American Heart	To establish expectations that providers and substitute providers meet certain basic experience requirements prior to being licensed to provide care, requirements are added that providers licensed after and substitute providers employed after the effective date of this regulation have (in addition to first aid certification) documentation of high school completion or equivalent or evidence of having met the requirements for admission to an accredited college or university, have three months of programmatic experience and have current CPR certification. The exception to CPR training for RNs and

		Association; 3. The National Safety Council for First Aid Training Institute; or 4. Have successfully completed, within the past three years, a pediatric first aid course equivalent to the curriculum which has been approved by the State Board of Health. EXCEPTION: A provider who is a RN or LPN with a current license from the Board of Nursing shall not be required to obtain first aid certification.	LPNs was deleted since nurses may not have had this training. For several years, no first aid training has included rescue breathing so the only way caregivers have been able to comply with the current requirement for training in rescue breathing is to have CPR training. To ensure continuity of care and that the provider has the primary responsibility for providing care (according to the definition of "provider"), the use of a substitute is limited to 240 hours per calendar year. A requirement is added for the substitute provider to record and sign the time of arrivals and departures for each day worked.
22 VAC 40-110 -10 Definitions 22 VAC 40-110-650. General.	22 VAC 40-111-150. Qualifications and requirements for assistants.	"Family day home assistant" or "assistant" means an individual who is 14 years of age or older and who helps the family day home provider in the care, protection, supervision and guidance of children in the home. Children shall be supervised by a care giver at all times. Children shall not be left alone in the care of an assistant under 18 years of age while in care.	To ensure job-readiness for assistants and to increase protections for children, the minimum age of an assistant is raised to 16 years. Because assistants meet the definition of "caregiver" and count in determining the total number of caregivers needed, requirements were added for these individuals to have current first aid and CPR certification. To protect children, requirements were added that an assistant under the age of 18 must work under the direct supervision of the provider or substitute provider (direct supervision means being able to hear or see the assistant and children at all times) and that an assistant 18 years of age or older must not be left alone with the children in care for more than 2 hours a day (unless the assistant meets the criteria for a substitute provider).
22 VAC 40-110-1090.1. Maintenance of health information.	22 VAC 40-111-170. Initial tuberculosis screening for caregivers and household members.	Health information shall be maintained on the care givers and any other adult household members who come in contact with children or handle food served to children, as described below: 1. Initial tuberculosis examination and report. a. Within 90 days prior to licensure, employment, or contact with children,	Requirements changed to comply with guidance issued in 1999 by the Virginia Department of Health which recommends screening rather than skin testing. To comply with recommendations from the Virginia Department of Health, the proposed regulation requires the provider to obtain for each caregiver at the time of hire and adult household member prior to coming into contact with children a current Report of Tuberculosis Screening. The screening is to have been completed within the last 30

		each individual shall obtain a tuberculin skin test indicating the absence of tuberculosis in a communicable form. b. Each individual shall submit a statement that he is free of tuberculosis in a communicable form, including the type of test used, the date the test was given, and the test results. c. The statement shall be signed and dated by a physician, the physician's designee, or an official of a local health department. d. The statement shall be filed in the individual's record maintained at the family day home. EXCEPTION: An individual may delay obtaining the tuberculosis test if a statement from a physician is provided that indicates the test is not advisable for specific health reasons. This statement shall include an estimated date for when the test can be safely administered. The individual shall obtain the test no later than 30 days after this date.	days. The Health Department also advised that tuberculosis is not transmitted through contact with food; therefore this portion of the requirement was deleted.
22 VAC 40-110-1090.2. Maintenance of health information.	22 VAC 40-111-180. Subsequent tuberculosis screening for caregivers and household members.	2. Subsequent evaluations. a. An individual who had a nonsignificant (negative) reaction to an initial tuberculin skin test shall obtain additional screening every two years thereafter. b. An individual who had a significant (positive) reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis shall obtain	To comply with recommendations from the Virginia Department of Health, the proposed regulation requires the provider to obtain for each caregiver and adult household member a current Report of Tuberculosis Screening (instead of a skin test) every two years from the date of the first screening or more frequently as recommended by a physician or the local health department; within 30 days of a caregiver's or adult household member's coming into contact with a known case of infectious tuberculosis. Until a new screening form is issued that documents the absence of tuberculosis in a communicable form,

		chest x-rays on an annual basis for the following two years. (1) The individual shall submit statements documenting the date of the chest x-rays and certifying freedom from tuberculosis in a communicable form. (2) The statements shall be signed and dated by a licensed physician, the physician's designee, or an official of a local health department. (3) The statements shall be filed in the individual's record maintained at the family day home. (4) Following the two-year period during which chest x-rays are required annually, additional screening shall be obtained every two years. c. Any individual who comes in contact with a known case of tuberculosis or develops chronic respiratory symptoms shall, within 30 days of exposure or development, receive an evaluation in accordance with subdivision 1 of this section.	the caregiver or adult household member shall not have contact with children. The provider must immediately obtain a new Report of Tuberculosis Screening for any caregiver or adult household member who develops chronic respiratory symptoms of three weeks duration. Until a new screening form is issued that documents the absence of tuberculosis in a communicable form, the caregiver or adult household member shall not have contact with children."
22 VAC 40-110-1100 Request for examination. 22 VAC 40-110-1110 Removal of individual.	22 VAC 40-111-190. Physical and mental health examinations for caregivers and household members.	At the request of the provider or the Department of Social Services, a report of examination by an approved physician shall be obtained when there is an indication that the safety of children in care may be jeopardized by the physical or mental health of a specific individual. Any individual who, upon examination or as a result of tests, shows indication of physical or	To protect children, for consistency with other Licensing regulations, and for clarity, the section was changed to add that a report may be obtained of examination by a mental health professional when there are indications that a caregiver's or household member's mental health may endanger the health, safety, or well-being of children in care. A caregiver or household member who is determined by a licensed physician or mental health professional to show an indication of a physical or mental

		mental condition or conditions which may jeopardize the safety of children in care: 1. Shall be removed immediately from contact with children and food served to children; and 2. Shall not be allowed contact with children or food served to children until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.	condition that may endanger the health, safety, or well-being of children in care or that would prevent the performance of duties must be removed immediately from contact with children and food served to children until the condition is cleared as evidenced by a signed statement form the physician or mental health professional.
	22 VAC 40-111-200. Orientation.		To ensure that other caregivers are familiar with their duties and expectations, the proposed regulation requires licensed providers to provide orientation to assistants and substitute providers within one week of employment. Orientation topics include job responsibilities; required parental notifications; emergency evacuation, relocation, and shelter-in-place procedures; the licensing regulations that relate to their jobs; confidential treatment of information about children and their families; location of emergency numbers, supplies, and the first aid kit; and child abuse and neglect reporting requirements.
22 VAC 40-110-90. Additional training	22 VAC 40-111-210. Annual training.	Six (6) hours of training annually in addition to first aid training.	The proposed regulation increases annual training hours for caregivers from 6 to 16 clock hours annually, beginning with 8 hours when the regulation becomes effective. One year after the regulation becomes effective, required annual training hours will increase to 12; two years after the effective date, the number will increase to 14; and three years after the effective date, the number will increase to 16 hours annually. Research, including that of the National Scientific Council on the Developing Child, indicates that quality early education programs that include highly skilled caregivers can enhance a child's cognitive and social development and can help provide the

			foundation for later school achievement, economic productivity, and responsible citizenship
	22 VAC 40-111-220. Medication administration training.		To comply with § 54.1-3408 (N) of the Code of Virginia, the proposed regulation adds requirements for Board of Nursing-approved medication administration training for caregivers in family day homes who choose to administer prescription medication. To protect children, requirements were added to require caregivers in family day homes who choose to administer non-prescription medication to complete a Department of Social Services-approved medication administration training.
22 VAC 40-110-100. Documentation.	22 VAC 40-111-230. Documentation of education and training.	Written documentation of pediatric first aid certification and annual training received by care givers shall be maintained on file in the family day home for the period of licensure. Written documentation shall include the name of the training session, the date and total hours of the session, and the name of the organization or person who sponsored the training.	Requirements added for documentation of each caregiver's applicable education and programmatic experience, CPR certification, orientation, annual training, and applicable medication administration training. Also added that written documentation of training include the name of the caregiver.
22 VAC 40-110-200. Hazards.	22 VAC 40-111-240. Home maintenance.	The physical facilities and furnishings of the home and grounds shall be kept clean and safeguarded from open and obvious hazards to the health and safety of children, such as but not limited to loose carpeting, lead paints, choking hazards, sharp objects, plastic bags, and poisonous plants accessible to children.	To protect children, requirements for home safety have been expanded and divided into a separate section. Areas and furnishings of the family day home, inside and outside, must be maintained in a clean, safe, and operable condition Equipment, materials, or furnishings must not be used if recalled or identified by the U.S. Consumer Product Safety Commission as being hazardous."
	22 VAC 40-111-250. Hanging and strangulation hazards.		For children's safety, added that items such as window blind or curtain cords, appliance cords, and tablecloths be kept out of reach of children under five years of age; toys of a certain size be kept from children under three years of age; items tied across or to cribs and

			playpens be removed when a child can push up on hands and knees; and hood or neck drawstrings be removed from children's clothing before they use climbing equipment..
22 VAC 40-110-570. Swimming pools. 22 VAC 40-110-580. Maintenance.	22 VAC 40-111-260. Drowning hazards.	Outdoor swimming pools shall be enclosed by safety fences and gates with child-resistant locks and wading pools shall be emptied and stored away when not in use during the normal family day home hours of operation. Any swimming and wading pools shall be set up and maintained according to manufacturer instructions. No home shall maintain any receptacle or pool, whether natural or artificial, containing water in such condition that insects breeding therein may become a menace to the public health.	For children's safety, requirements added to prevent children's access to above-ground pools. Play areas within 30 feet of unfenced in-ground pools, ponds and fountains must be surrounded by a non-climbable barrier such as a fence (current providers have one year to comply). Portable wading pools must be cleaned after each use, emptied and stored when not in use, and not used by children who are not potty trained. Bathtubs, buckets, and other containers of liquid that are accessible to children must be emptied immediately after use in order to eliminate the danger of drowning, particularly for a small child whose head is heavier than his body. Other newly added requirements intended to prevent drowning include a prohibition against children's use of hot tubs, spas and whirlpools, and the requirement that these items be covered with safety covers while children are in care.
22 VAC 40-110-230. Firearms.	22 VAC 40-111-270. Firearms and ammunition.	Firearms shall be stored unloaded and apart from ammunition. Firearms and ammunition shall be stored in a locked area with keys out of reach of children.	Requirements related to storage of firearms and ammunition have been revised to require storage in a locked container, compartment or cabinet, rather than in a locked "area." This change addresses the issue that arose when "area" was considered to be a locked room that was reported to be off limits to children in care. Firearms were stored in bedside tables or chests that made them potentially accessible to children in the event the room was left unlocked in error.
22 VAC 40-110-400 and 410. Fire extinguishers and smoke detectors.			The requirements for smoke detectors and fire extinguishers were deleted, based on an Attorney General's opinion that the Department of Social Services has no authority to enforce these requirements.
22 VAC 40-110-490. Sharp kitchen utensils.	22 VAC 40-111-290. Sharp objects.	Sharp kitchen utensils shall be placed in an area inaccessible to children or in a cabinet or drawer with child-resistant latches, unless being used by the care giver or with children	To protect children, a requirement was added that "other sharp objects" also be inaccessible to children. The phrase "or in a cabinet or drawer with child-resistant latches" was deleted. Having the two options has caused inconsistency in enforcement.

		under close supervision, e.g., when children are using these objects in planned activities.	
	22 VAC 40-111-300. Body fluid contamination.		To prevent the spread of infectious diseases, the following has been added: "When any surface has been contaminated with body fluids, it shall be cleaned and sanitized."
	22 VAC 40-111-300. Machinery.		To protect children, a requirement was added that power tools and machinery be inaccessible to children. A child in a licensed family day home was killed when struck by a riding lawn mower.
22 VAC 40-110-390. Liquid fuel heaters 22 VAC 40-110-470. Fire hazards	22 VAC 40-111-320. Fire safety and shock prevention.	Portable liquid fuel burning heaters shall not be used in areas accessible to children when children are in care. If there are open and obvious fire hazards, the local fire prevention officials may be contacted by the department's representative. The provider shall comply with the requirements or recommendations made by the fire prevention officials to eliminate fire hazards.	Due to the danger of carbon monoxide poisoning, the proposed regulation prohibits the use of unvented fuel burning heaters when children are in care. The regulation has been revised to require that open and obvious hazards and the absence of fire extinguishers and smoke detectors be reported to local fire officials in accordance with the 2000 Memorandum of Agreement between the Department of Social Services and the Department of Housing and Community Development and according to a guidance document issued in 2002.
22 VAC 40-110-440. Telephones.	22 VAC 40-111-330. Telephones.	The home shall have a working telephone. If the telephone number is unlisted, providers shall ensure that parents and the department have been given the unlisted number in writing. When changes of telephone numbers occur, providers shall inform the department within 48 hours and parents within 24 hours of the new telephone number.	To ensure providers can always contact emergency responders and parents, a requirement was added that the home have a land-line telephone.
22VAC40-110-290. Bathrooms.	22 VAC 40-111-340. Bathrooms.	The home shall have indoor running water and a bathroom. The bathroom shall be easily accessible to children two years of age and older. The bathroom	Clarified that the home must have an indoor bathroom. For infection control purposes, the proposed regulation no longer allows cloth towels because there is no way to control children's using each others' towels. Added that bathroom must contain "toilet" tissue

		shall be kept clean and have a working toilet and sink, tissue, and soap. Either paper towels or individually assigned cloth towels shall be provided. If cloth towels are used, they shall be laundered when soiled and at least once a week.	and "liquid" soap.
22VAC40-110-320. Water supply.	22 VAC 40-111-350. Water supply.	When water is not obtained from a municipal supply and the house is not connected to a municipal sewer line, the water supply and septic system of the family day home shall be inspected and approved by the local health official or a private laboratory if there are open and obvious symptoms of water or sewage system problems, such as evidence of cloudy, murky, or muddy water, or sewage back up. Family day homes that are connected to a municipal water supply and sewer line and have open and obvious symptoms of water or sewage system problems shall have the problems corrected within a time frame agreed upon by the department and the provider.	For infection control purposes, added a requirement for the home to have an ample supply of hot and cold water available to children and caregivers for hand washing. To prevent scalding, a requirement was added that "Hot water at taps available to children shall be maintained within a range of 105℉ to 120℉."
22VAC40-110-500. Fans.	22 VAC 40-111-410. Electric fans.	Electrical fans used in rooms accessible to children shall have protective shields and be placed out of the reach of children.	For children's safety, added that portable fans must be securely mounted out of the reach of children and equipped with a mesh guard.
22VAC40-110-240. Barriers.	22 VAC 40-111-430. Stairs.	Protective barriers including but not limited to safety gates shall be installed securely at the top or bottom of open stairways on the floor where the stairways are accessible to children under two years of age	To prevent conflict with the Uniform Statewide Building Code, the regulation was reworded as follows, "Children under two years of age and children over two years of age who are not developmentally ready to climb or descend stairs without supervision shall not have access to stairs. Accordion expansion gates and

22VAC40-110-250. Stairways.		and children over two years of age who are not developmentally ready to climb or descend stairs without supervision. Gates used shall meet the current American Society for Testing Materials standards for juvenile products. All interior and exterior stairways with over three risers that are used by children shall have handrails within the normal grasp of the children or banisters with vertical posts between the handrails and each step, which can be safely grasped by children.	pressure-mounted gates shall not be used as protective barriers at stair openings. Children over age two must not have access to stairs without barriers or guardrails to prevent a child's climbing over, falling through, or becoming entrapped."
	22 VAC 40-111-440. Decks and porches.		To reduce the risk of injuries due to falls or head entrapment, a child must not have access to decks, porches, lofts, and balconies that do not have barriers or guardrails to prevent a child's climbing over, falling through, or becoming entrapped.
22VAC40-110-210. Ventilation. 22VAC40-110-270. Doors.	22 VAC 40-111-450. Doors and windows.	When windows and doors are used for ventilation, they shall be screened securely. Doors with clear glass panels that reach within 18 inches of the floor shall be clearly marked with decorative objects such as pictures, art work, or decals near the child's eye level to prevent accidents.	For children's safety, added that closet door latches must be such that children can open the door from inside the closet; Bathroom door locks must be designed to permit opening of the locked door from the outside with a readily accessible opening device. Added that the markings be at the eye level of children in care.
22VAC40-110-1280. Food surfaces. 22VAC40-110-1290. Health. 22VAC40-110-1300.	22 VAC 40-111-460. Animals.	Family pets shall not be allowed on any surfaces where food is prepared or served. Any pet or animal present at the home, indoors or outdoors, shall be in good health, and show no evidence of carrying any disease. Dogs or cats, where allowed, shall be	To further protect children, requirements were added that the provider must have documentation of the current rabies vaccination; animals that have shown aggressive behavior may not be kept in the home or on the grounds; certain disease-carrying animals and animal toys, food dishes, and water dishes are prohibited in areas accessible to children during the hours the day care home is in operation; and animal excrement must be removed promptly, disposed of

Immunization. 22VAC40-110-1310. Supervision. 22 VAC40-110-1320. Litter boxes. 22 VAC40-110-1330. Sanitation of hands.		immunized for rabies and shall be treated for fleas, ticks, or worms as needed. Care givers shall closely supervise children when children are exposed to animals at the home. Children shall be instructed on safe procedures to follow when in close proximity to these animals, e.g., not to provoke or startle them or remove their food. Potentially dangerous animals shall not be in contact with children. Animal litter boxes shall not be located in areas accessible to children. All animal litter must be removed promptly from children's areas and disposed of properly. Care givers' and children's hands shall be washed after handling animals or animal wastes.	properly, and the soiled area cleaned.
22 VAC40-110-190. Smoke-free environment.	22 VAC 40-111-470. Smoking and prohibited substances.	The licensee shall ensure that a smoke-free environment is provided in rooms accessible to children while children are in care.	To protect children from second-hand smoke, the proposed regulation prohibits smoking indoors while children are in care or outdoors in areas occupied by children. To ensure the safety of children, requirements were added that no caregiver may be under the influence of medication that impairs functioning, alcohol, or illegal drugs.
22 VAC 40-110-620. Play materials. .	22 VAC 40-111-480. Play equipment and materials.	A sufficient supply and variety of developmentally appropriate play materials, toys, and equipment shall be available and accessible to children in care	To clarify the types of toys and activities that are to be provided, the proposed regulation states that equipment and materials must be appropriate to the age, size, ability and interests of the children and requires the licensee to provide arts and crafts materials, texture materials, construction materials, music and sound materials, books, social living equipment and manipulative equipment. To ensure children's safety, it was added that equipment

			used by children must be assembled, maintained, and used according to the manufacturer's instructions; and must be non-toxic, free of hazards, and clean. To prevent the spread of disease, toys mouthed by children must be cleaned and sanitized daily.
	22 VAC 40-111-490. Indoor slides and climbing equipment.		For children's safety, a requirement was added that indoor slides and climbing equipment over 18 inches high must not be over bare floor.
	22 VAC 40-111-500. Outdoor play area and equipment.		For children's safety and based on recommendations from the U.S. Consumer Product Safety Commission, requirements were added that a barrier surround outdoor play areas located within 30 feet of hazards (current providers have one year to comply with this requirement); the highest rung or platform of outdoor climbing equipment must not be over 6' for school age children and 4' for preschool children. Stationary outdoor equipment must not be installed over concrete, asphalt, or other hard surface; must be placed at least 6' from other play structures or obstacles; and be firmly anchored with materials covering the ground supports. "S" hooks must be tightly closed; swings must have flexible seats (unless a caregiver stays within arm's length to protect other children); above-ground openings must be of a size to prevent head entrapment; no ropes, loops, or hanging apparatus that could tighten upon a child may be used; equipment with moving parts that could pinch or crush a child's hand or fingers is prohibited unless the moving parts are covered by guards; platforms and ramps over 30" high must have been designed with guardrails or barriers to prevent falls; sandboxes must be covered when not in use; and trampolines may not be used while children are in care.
22 VAC 40-110-530. Rest areas.	22 VAC 40-111-510. Rest areas.	Each child shall be provided with a designated crib, cot, rest mat, or bed for resting or napping. Rest mats that	For children's safety, added that upper levels of double-deck beds must not be used and occupied cribs, rest mats, and beds must be at least 3' from any heat-producing appliance, and at least

		are used shall have at least an inch of cushioning and be sanitized at least weekly and as needed.	12" from each other.
22 VAC 40-110-540. Cribs.	22 VAC 40-111-520 Cribs.	Cribs that meet the current Consumer Product Safety Commission standards for cribs, 16 CFR 1508 and 1509, shall be provided for children from birth through 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot, rest mat, or bed. 1. Double decker cribs and play pens shall not be used; 2. Crib slats shall be no more than 2⅜ inches apart; 3. Crib sides shall always be up and the fastenings secured when a child is in the crib, except when the care giver is giving the child immediate attention; 4. Mattresses shall fit snugly next to the crib so that no more than two fingers can be inserted between mattresses and the crib; and 5. Cribs with end panel cut-outs shall be of a size that prevents head entrapment.	For children's safety, added that mesh-sided cribs or cribs that have been recalled shall not be used. Use of crib-bumper pads is also prohibited.
22 VAC 40-110-530. Rest areas.	22 VAC 40-111-530. Linens.	1. Clean linen suitable to the season, and assigned for individual use, shall be used each time children sleep on beds of family members. 2. Clean linen suitable to the season shall be used and washed at least weekly and as needed.	For children's comfort, added that cribs, cots, rest mats, and beds used by children other than infants shall have top and bottom covers or a one-piece covering that is open on three sides; cribs used by infants must have a tight-fitting bottom cover. To prevent suffocation, no soft bedding or toys may used under or around infants; children under 2 years may not use pillows or filled comforters. For sanitation purposes, pillows must

			be assigned for individual use and covered with pillowcases; mattresses must be covered with waterproof material that can be cleaned and sanitized.
22 VAC 40-110-550. Infant seats.	22 VAC 40-111-540. Infant and toddler equipment.	High chairs and infant carrier seats shall meet the American Society for Testing Materials (ASTM) standards for juvenile products and when occupied by a child a safety strap shall be used and securely fastened.	For clarification and for added protection to children, the proposed regulation states that "infant carrier seat, swings, strollers, feeding and activity tables, and high chairs shall be used according to the manufacturer's instructions and when occupied by a child, a safety strap shall be used and securely fastened."
	22 VAC 40-111-550. Play pens.		For children's safety, the proposed regulation adds requirements for play pen construction based on recommendations of the U.S. Consumer Product Safety Commission. Play pens must have the sides up and fastenings secured (except the caregiver is giving the child immediate attention); must be cleaned and sanitized at least daily; not be occupied by more than one child; not have hazards such as torn mesh sides or broken hinges; not contain any pillows, filled comforters, large toys or other objects that could be used as a stepping stool; not be used by children weighing 30 pounds or more; and not be used by children 35" tall or taller.
22 VAC 40-110-650. Supervision (General). 22 VAC 40-110-710. Level of supervision.	22 VAC 40-111-560. Supervision.	Children shall be supervised by a caregiver at all times. Children shall not be left alone in the care of an assistant under 18 years of age while in care. Children shall be supervised in a manner which ensures that the care giver is aware of what the children are doing at all times and can promptly assist or redirect activities when necessary. In deciding how closely to supervise children, providers shall consider the following: 1. Ages of the children; 2. Individual differences and abilities;	For the safety and protection of children, the proposed regulation strengthens the supervision requirements by adding that caregivers who are supervising children must ensure the children's care, protection, and guidance. When awake, infants and toddlers must always be within actual sight and sound of a caregiver. When awake, preschoolers must always be within actual sight or sound of a caregiver (if only within sound of a caregiver, must be monitored by in-person checks every 15 minutes and every 5 minutes if in the bathroom). Sleeping infants, toddler, and preschoolers must be within sight or sound of a caregiver (if only within sound of a caregiver, must be observed by a caregiver every 15

		3. Layout of the house and play area; 4. Neighborhood circumstances or hazards; and 5. Risk activities children are engaged in.	minutes). Added that no child under 5 years or older than 5 if lacking in strength and motor skills, shall be left unattended in the bathtub.
22 VAC 40-110-120. Staffing.	22 VAC 40-111-570. Determining need for additional caregiver.	A. In determining the need for an assistant, the following fixed adult-to-child ratios shall be maintained for children receiving care. This ratio includes the provider's own and resident children under eight years of age: 1. 1:4 children from birth through 15 months of age; 2. 1:5 children from 16 months through 23 months of age; 3. 1:8 children from two years through four years of age; 4. 1:16 children from five years through nine years of age; and 5. Children who are 10 years of age and older shall not count in determining the ratio of adults to children for staffing purposes. B. When children are in mixed age groups, the provider shall apply the following point system in determining the need for an assistant. Each care giver shall not exceed 16 points. The provider's own and resident children under eight years of age count in point maximums: 1. Children from birth through 15 months of age count as four points each; 2. Children from 16 months through 23 months of age count as three points each; 3. Children from two	Children in family day homes are in mixed age groups, so for clarity the ratios were deleted from the proposed regulation and only the point system will be used. To ensure the adequate supervision of children, the proposed regulation also deletes the exception that allowed providers to exceed the point maximum.

		years through four years of age count as two points each; 4. Children from five years through nine years of age count as one point each; and 5. Children who are 10 years of age and older count as zero points. EXCEPTION: The point maximums for mixed age groups or the fixed adult-to-child ratios may be exceeded in one age group for no more than one child for up to one month from the date of the child's enrollment during transitional periods when there is turnover in children receiving care and when the ages of the child leaving and the child entering care do not match.	
22 VAC 40-110-590. Routine. 22 VAC 40-110-600. Activities. 22 VAC 40-110-610. Activity opportunities.	22 VAC 40-111-580. Programs (General requirements).	The provider shall establish a daily routine so that there is sufficient time included to talk with, play with, and offer physical comfort to children in care. Age appropriate activities shall be provided for children in care throughout the day and shall be based on the physical, social, emotional and intellectual needs of the children. Daily age appropriate activities shall include: 1. Opportunities for alternating periods of indoor active and quiet play depending on the	To promote the child's physical, intellectual, emotional, and social well-being and growth, the proposed regulation requires caregivers to provide children needed help, comfort, and support; respect personal privacy; respect differences in cultural, ethnic, and family backgrounds; encourage decision-making abilities; promote getting along; encourage independence and self-direction; and use consistency in applying expectations. Added that the activities must reflect the diversity of enrolled children's families, culture, ethnic backgrounds; and enhance the total development of children.

		ages of the children; 2. Opportunities for vigorous outdoor play daily, depending upon the weather, the ages, and the health of the children; 3. Opportunities for one or more regularly scheduled rest or nap periods. Children unable to sleep shall be provided time and space for quiet play; 4. Opportunities for children to learn about themselves, others and the world around them; 5. Opportunities for children to exercise initiative and develop independence in accordance with their ages; and 6. Opportunities for structured and unstructured play time and provider- directed and child-initiated learning activities.	
22 VAC 40-110-690. Movement of sleeping infants.	22 VAC 40-111-590. Requirements for sleeping and resting.	An infant who falls asleep in a play space other than his own sleeping space shall be moved promptly to his designated sleeping space if the safety or comfort of the infant is in question.	To reduce the danger of Sudden Infant Death Syndrome (SIDS), added that infants must be placed on their backs to sleep or nap unless otherwise ordered in writing by the child's physician. For the comfort of children, also added that school age children shall be allowed to nap if needed, but not forced to do so.
22 VAC 40-110-700. Stimulation.	22 VAC 40-111-600. Daily activities for infants and toddlers.	Stimulation shall be regularly provided for infants in a variety of ways including, but not limited to, being held, cuddled, talked to, and played with by the family day home provider or assistant.	To enhance the development of children, the proposed regulation adds requirements for infants and toddlers to be provided with opportunities to interact with caregivers and other children in order to stimulate language development, to play with a wide variety of safe, age-appropriate toys; to receive individual attention from caregivers; to engage in activities to develop motor skills; and to spend no longer than 30 minutes of consecutive time in confining equipment (except to eat).
22 VAC 40-	22 VAC 40-111-	Television shall be used	To ensure that children are involved in

110-640. Television.	610. Television, computers, videos and video games.	with discretion and not as a substitute for planned activities. The amount of time children watch television and the type of programs viewed shall be monitored closely by care givers.	more stimulating activities, use of media such as television, videos, computers, etc. is limited to a total of 2 hours per day and limited to programs, etc. that are suitable for children. Other activities must be made available to children during television or video viewing.
22 VAC 40-110-850. Time out.	22 VAC 40-111-630. Behavioral guidance.	When time out is used as a discipline technique, it shall be used sparingly and be brief and appropriate to the child's developmental level and circumstances. The child who is separated from the group shall be in a safe, lighted, well-ventilated place and shall be within hearing and vision of the provider or substitute provider. The child shall not be left alone inside or outside of the home while separated from the group. Note: If time out is enforced by a caregiver, it shall not exceed one minute for each year of the child's age. Time out shall not be used with infants.	The proposed regulation also prohibits the use of time out for toddlers (children up to 24 months of age).
22 VAC 40-110-830. Prohibited behavior.	22 VAC 40-111-640. Forbidden actions.	The following behavior shall be prohibited as methods of discipline by all care givers: 1. Corporal punishment, including hitting, spanking, beating, shaking, pinching, and other measures that produce physical pain; 2. Forcing, withdrawing, or threatening to force or withdraw food, rest, or bathroom opportunities; 3. Abusive or profane language; 4. Any form of public or private humiliation, including threats of physical punishment; and 5. Any form of emotional abuse, including	For clarity in the proposed regulation, the various sections were combined into one section and worded to be consistent with forbidden actions in the regulation for licensed child day centers.

22 VAC 40-110-840. Physical restraint. 22 VAC 40-110-860. Confinement. 22 VAC 40-110-870. Punishment by children. 22 VAC 40-110-880. Toileting accidents.		rejecting, terrorizing, or corrupting a child. Children shall not be physically restrained except as necessary to ensure their own safety or that of others, and then only for as long as is necessary for control of the situation. No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as closets, locked rooms, latched pantries, or containers. The provider or substitute provider shall not give a child authority to punish another child nor shall the provider consent to a child punishing another child. Children shall not be punished for toileting accidents.	
22 VAC 40-110-1170. Accident reports. 22 VAC 40-110-1180. Records.	22 VAC 40-111-650. Parent notifications.	Major injuries to the head, other parts of the body, and major accidents shall be reported immediately to the child's parent or parents. Minor injuries and accidents shall be reported to the child's parent or parents on the same day they occur. An injury or accident sustained by a child while at the family day home that required first aid or medical attention shall be recorded in the child's record. Information recorded shall include the date and nature of injury or accident, action taken	To comply with requirements of § 63.2-1809.1 of the Code of Virginia, added that parents must be notified if there no longer is liability insurance coverage in force on the operation of the family day home. To strengthen authority and rights of parents, added requirements for the provider to notify the parent when a substitute provider will be caring for the children; when persistent behavioral problems are identified and any disciplinary steps taken. Also added that the provider must notify the parent immediately when the child has a head injury or serious injury that requires emergency medical or dental treatment, has an adverse reaction to medication; has been administered medication incorrectly, is lost or missing, or has died. Added that the parent must be notified the same day whenever first aid is administered to the child; the provider must inform

22 VAC 40-110-1400. Communication with parents.		and verification of parental notification. The provider shall agree to share information daily with parents about their children's health, development, behavior, adjustment, or needs	parents of any changes in the home's emergency preparedness and response plan, of anytime the child is to be taken off the premises of the family day home, and of the whereabouts of the child as soon as possible if emergency evacuation or relocation is necessary,
22 VAC 40-110-720. Pool supervision.	22 VAC 40-111-660. Swimming or wading activities; supervision.	When children are permitted to swim and wade, a care giver shall be present at all times and able to supervise the children and respond immediately to emergencies. A minimum of two care givers shall be present and able to supervise the children when three or more children are in the water, with the exclusion of wading pools.	To decrease the risk of drowning, the proposed regulation requires that the point system for determining the need for an extra caregiver be maintained while children are swimming or wading. Written parental permission must be obtained for swimming or wading activities. Before a child is allowed in water above his shoulders, a written statement must be obtained from the parent advising of the child's swimming skills. Caregivers shall have a system for accounting for all children in the water and outdoor swimming is allowed only during daylight hours. If children are in water over 2' deep, an individual certified in basic water safety, community water safety, water safety instruction, or lifeguarding shall be on duty supervising the children. The certification must be from an organization such as the American Red Cross, the YMCA, or the Boy Scouts.
22 VAC 40-110-1140. Exclusion.	22 VAC 40-111-670. Exclusion of sick children.	Unless otherwise approved by a child's health care professional, a child shall be excluded from the family day home if the child exhibits the following symptoms: 1. An oral body temperature of 101℉ or greater or an auxiliary (armpit) temperature of 100℉ or greater; or 2. Recurrent vomiting or diarrhea; or 3. Symptoms of a communicable disease as delineated in the current Communicable Disease Chart recommendation for the exclusion of sick children.	Following recommendations of the American Academy of Pediatrics, the American Public Health Association, and the Maternal and Child Health Bureau of the Health Resources and Services Administration, the list of excludable conditions was changed to include: both fever and behavior change, symptoms of severe illness, diarrhea; vomiting 2 or more times in 24 hours, or symptoms of a communicable disease listed in the Health Department's communicable disease chart.

22 VAC 40-110-740. Diapering steps. 22 VAC 40-110-970. Sanitation of hands. 22 VAC 40-110-980. Handling of foods. 22 VAC 40-110-1330. Sanitation of hands.	22 VAC 40-111-680. Hand washing.	Care givers shall wash their hands with soap or germicidal cleansing agents and water after each diaper change and after helping a child with toileting. Children's hands shall be washed with soap and water before eating meals or snacks. Care givers' hands shall be washed with soap or germicidal cleansing agent and water before handling or serving food. Care givers shall use sanitary practices when handling and preparing foods. Care givers' and children's hands shall be washed after handling animals or animal wastes.	To prevent the spread of disease, the proposed regulation adds that caregivers are to wash their hands with liquid soap and warm running water, wash when their hands are dirty, before feeding or helping children with feeding, after contact with any body fluids, after handling raw eggs or meat. Also added that children's hands are to be washed when they are dirty and after contact with any body fluids.
22 VAC 40-110-730. General. 22 VAC 40-110-740. Diapering steps.	22 VAC 40-111-690. Diapering and toileting.	When a child's clothing or diaper becomes wet or soiled, it shall be changed promptly. The following steps shall be used for diapering: 1. Diapers shall be changed on a nonabsorbent surface. Children shall not be left unattended during diapering. 2. During each diaper change the child's genital area shall be thoroughly cleaned with a moist disposable wipe or a moist, clean individually assigned cloth, if the child is allergic to disposable wipes. 3. Soiled disposable diapers and wipes shall be discarded in a lined container, with a tight-fitting lid, operated by a foot pedal (step can). Soiled cloth diapers and wipes shall be put in a	To prevent the spread of disease, the proposed regulation adds that the diapering surface be separate from the kitchen and food preparation areas, and be non-absorbent and washable. Requirements were added for handling soiled cloth diapers in the same way as soiled disposable diapers To strengthen authority and rights of parents, a requirement was added for consultation with the parent before beginning toilet training. For the child's safety and comfort, caregivers must respond promptly to a child's request for toileting assistance, toilet training is to be relaxed and pressure free; and a toilet chair or adult-sized toilet with a platform or steps and adapter seat must be available to each child being toilet trained.

		plastic bag and stored in individually labeled diaper bags to be taken home. The container and diaper bags shall be kept clean, free of soil build up and odor, and shall not be accessible to children. 4. Care givers shall wash their hands with soap or germicidal cleansing agents and water after each diaper change and after helping a child with toileting. 5. The diaper changing surface shall be cleaned with soap and water, and disinfected by lightly spraying with a germicidal or water and chlorine bleach solution, i.e., one tablespoon of bleach to one quart of water. The disinfectant shall be spread evenly with a paper towel over the diaper changing surface and the surface shall be allowed to air dry after each diaper change. When a bleach and water solution is used, it shall be made fresh daily and stored out of the reach of children. 6. Surfaces used for children's activities or meals shall not be used for changing diapers.	
22 VAC 40-110-750. Toilet chairs. 22 VAC 40-110-770. Privacy.		Toilet chairs shall be emptied promptly, rinsed and disinfected after each use. Children five years of age and older shall be permitted privacy when toileting.	
22 VAC 40-110-1220. Dosing and consent.	22 VAC 40-111-700. Medication; general.	Prescription and nonprescription drugs shall only be given to a child as directed by the prescription label or by	For the safety of children, the proposed regulation adds that medication is to be given according to the home's written medication policies (a provider is not required to administer medications).

		the instructions on the original container and when the provider has the parent's written consent.	The parent's authorization for medication administration expires or must be renewed after 10 work days (unless written authorization for long-term administration is provided by the child's physician and parent). When an authorization expires, the parent must be notified that it must be picked up within 14 days or renewed. Medications not picked up by parents within 14 days must be destroyed. These requirements are consistent with the requirements in licensed child day centers.
	22 VAC 40-111-710. Prescription medication.		To comply with § 54.1-3408 (N) of the Code of Virginia, requirements were added that the family day home only administer prescription medication that would normally be administered by a parent or guardian; caregivers administer only drugs dispensed from a pharmacy and maintained in the original, labeled container; and administer drugs only to the child identified on the prescription label in accordance with the prescriber's instructions for the dosage, frequency, and manner of administration.
22 VAC 40-110-1240. Labeling.	22 VAC 40-111-720. Non-prescription medication.	Any over-the-counter medication brought into the home for use by a specific child shall be kept in the original container and shall be labeled with the following information: the date; the child's first and last names; and specific, legible instructions for administration and storage.	To protect children, the proposed regulation adds that non-prescription medication must be in the original container with the manufacturer's direction label attached, given only at the dose, duration, and method of administration specified on the manufacturer's label for the age or weight of the child, and not be used beyond the expiration date of the product. These requirements are consistent with requirements for licensed child day centers.
22 VAC 40-110-1230. Storage. 22 VAC 40-110-1250. Usage and precautions.	22 VAC 40-111-730. Storage of medication.	All medicines shall be stored in an area inaccessible to children. All medicine shall be returned to parents when no longer needed. Prescription medicines shall be dated and kept in the original container with the prescription label and the child's first and last names attached. All medications, refrigerated or unrefrigerated, shall be	For the protection of children, the proposed regulation was reworded to require that medications for children in care be stored separately from medications for household members and caregivers; when needed, medication be refrigerated; when medication is stored in a refrigerator used for food, the medications be stored together in a container or in a clearly defined area away from food; medication, except for those prescriptions designated otherwise by a written physician's order, including refrigerated medication and

		kept out of reach of children, shall be kept in an orderly fashion, and shall be stored at the proper temperature. Medication shall not be used beyond the date of expiration.	medications for caregivers and household members, be kept in a locked place using a safe locking method that prevents access by children, and if a key is used, the key not be accessible to the children. . These requirements are consistent with requirements for licensed child day centers.
22 VAC 40-110-1260. Records.	22 VAC 40-111-740. Medication records.	The provider shall keep a medication record on each child which shall include: 1. A statement acknowledging parental consent to administer medication to the child; 2. The amount and name of medication administered to the child; 3. The day and time the medication was administered to the child; and 4. The name of the provider or adult assistant administering the medication. (Assistants under the age of 18 shall not administer medication.)	For added safety, the proposed regulation also requires that the medication record contain the name of the child, any adverse reactions and any medication error. These requirements are consistent with those for licensed child day centers.
	22 VAC 40-111-750. Sunscreen, diaper ointment and insect repellent.		This section was added to incorporate the instructions from a guidance document issued in May 2000. The proposed regulation requires that when sunscreen, diaper ointment, and insect repellent are used, the parent must provide written authorization noting any known adverse reaction, the product must be in the original container labeled with the child's name, manufacturer's instructions for application must be followed, and parents must be informed immediately of any adverse reaction. The product must be inaccessible to children. Caregivers without medication administration training may apply the product unless it is a prescription medication. The product may not be used beyond its expiration date.
22 VAC 40-110-1270. First aid supplies.	22 VAC 40-111-760. First aid and emergency medical supplies.	First aid supplies shall be readily accessible to the care giver or care givers and inaccessible to	The proposed regulation was reworded to make the requirements for the contents of the first aid kit consistent with the requirements for licensed child

		children. The required first aid supplies which shall be available are: 1. Scissors; 2. Tweezers; 3. Sterile nonstick gauze pads; 4. Adhesive or bandage tape; 5. Band-aids, assorted sizes; 6. Sealed packages of alcohol wipes or an antiseptic cleaning agent; 7. An anti-bacterial ointment; 8. Thermometer; 9. Chemical cold pack, if ice pack not available; 10. First aid instructional manual or cards; 11. Insect bite or sting preparation; 12. One triangular bandage; 13. Syrup of Ipecac, to be used only when instructed by the regional poison control center or children's physician and before the expiration date; 14. Flexible roller or stretch gauze; 15. Disposable nonporous gloves; and 16. Eye dressing or pad.	day centers. A digital thermometer is required due to the danger of using mercury thermometers with children. Based on recommendations from the American Academy of Pediatrics and the American Heart Association, the requirement for syrup of ipecac was deleted and activated charcoal preparation added.
22 VAC 40-110-460. Flashlights and radios.	22 VAC 40-111-770. Emergency flashlights and radios.	An operable flashlight and battery operated radio shall be kept in a designated area and available at all times.	Based on recommendations from the Virginia Department of Emergency Management and the National Weather Service, requirements were added for a battery-operated weather band radio and extra batteries.
22 VAC 40-110-1380. Emergencies.	22 VAC 40-111-780. Emergency information.	The emergency contact information listed in subdivision 1 e of 22 VAC 40-110-1360 [emergency contact information] shall be made available to a physician, hospital, or emergency care unit in the event of a child's illness or injury.	For emergency preparedness purposes, the proposed regulation requires the provider to annually review the child's emergency contact information with the parent.
22 VAC 40-	22 VAC 40-111-	The following telephone	For clarity, the proposed regulation

110-450. Posted numbers.	790. Posted telephone numbers.	numbers shall be posted in a visible area close to the telephone: 1. A physician or hospital; 2. An ambulance or rescue squad service; 3. The local fire department; 4. The local police department; NOTE: If there is a generic emergency number such as, but not limited to, 911 operable in the locality, that number may be posted instead of the above numbers. 5. A regional poison control center.	was reworded to require the posting of a 911 or local dial number for police, fire, and emergency medical personnel. The requirements for posting the number of a physician or hospital are deleted because each child would have his own physician and in an emergency, emergency responders would be called rather than a hospital. For the safety of children in an emergency, the proposed regulation adds a requirement for posting the telephone number of a responsible person for emergency back-up care.
22 VAC 40-110-420. Escape plans.	22 VAC 40-111-800. Emergency preparedness and response plan.	There shall be a written posted emergency escape plan in the event of a fire or natural disaster which shall be taught to all care givers and to children in care who are developmentally able to understand.	For children's safety and based on recommendations from the Virginia Department of Emergency Management, a written emergency preparedness and response plan is required that addresses most likely to occur emergency scenarios; has evacuation, relocation, and shelter-in-place procedures; and includes the provision for a responsible person at least 18 years of age to be available within 10 minutes for emergency back-up care until the children can be picked up by their parents. The provider must review the plan annually, update it as needed, and train each caregiver on the plan within the first week of assuming job responsibilities, at least annually thereafter, and whenever the plan changes.
	22 VAC 40-111-810. Evacuation and relocation procedures.		For children's safety and based on recommendations from the Virginia Department of Emergency Management, requirements were added for the emergency preparedness and response plan to contain evacuation and relocation procedures that include methods to alert caregivers and emergency responders; primary and secondary routes out of the building; assembly points; relocation sites; methods to ensure all children are evacuated or moved to a relocation site; methods to

			account for all children at assembly points and relocation site; methods to ensure essential documents, medications, and supplies are taken to the assembly point and relocation site; the method of communication with emergency responders and parents after the evacuation and the method of communication with parents after the relocation.
	22 VAC 40-111-820. Shelter-in-place procedures.		For children's safety and based on recommendations from the Virginia Department of Emergency Management, requirements were added for the emergency preparedness and response plan to contain shelter-in-place procedures that include methods to alert caregivers and emergency responders; designated safe locations; primary and secondary routes to the safe locations; methods to ensure all children are moved to the safe locations; methods to account for all children at the safe locations; methods to ensure essential documents, medications, and supplies are taken to the safe location; the method of communication with emergency responders and parents.
22 VAC 40-110-420. Escape plans. 22 VAC 40-110-430. Evacuation records.	22 VAC 40-111-830. Emergency response drills.	The escape plan shall be practiced with all care givers and children in care on a monthly basis to the point of exit from the home. Documentation shall be maintained of practiced emergency escape plans, which shall include the date of the event, the number and ages of children involved, and the approximate evacuation time. Records of monthly practiced procedures shall be maintained until the license is renewed.	For children's safety, to comply with the Statewide Fire prevention Code, and based on recommendations from the Virginia Department of Emergency Management, requirements were added for practicing the emergency evacuation monthly on all shifts that children are in care.
22 VAC 40-110-1190. Written reports.	22 VAC 40-111-850. Reports to department.	The provider shall report to the department within 24 hours any accident, injury or illness that occurred while a child was in care which results in death. A written report shall be completed and	To facilitate a prompt investigation, a requirement was added that a serious injury to a child in care must also be reported to the department with 24 hours.

22 VAC 40-110-1200. Missing children.		submitted to the department within five working days. The provider shall report a lost or missing child to the department within 24 hours when it was necessary to seek assistance from local emergency or police personnel.	
22 VAC 40-110-1210. Abuse.	22 VAC 40-111-860. Reports of suspected child abuse or neglect and disease outbreaks	The provider shall verbally notify the local department of social services or call the toll free number for the Bureau of Child Protective Services (1-800-552-7096/TDD) immediately whenever there is reason to suspect that a child has been or is being subjected to any kind of child abuse or neglect by any person.	To comply with § 32.1-37 of the Code of Virginia, added that the provider must immediately report an outbreak of a disease to the local health department or to the Commissioner of the Virginia Department of Health.
22 VAC 40-110-950. Time schedules.	22 VAC 40-111-870. Meals and snacks; general.	Meals and snacks shall be served in accordance with the times children are in care, which include: 1. Between the hours of 7 a.m. and 6 p.m., breakfast, lunch, and snacks shall be served. 2. Between the hours of 2 p.m. and 10 p.m., an afternoon snack, supper and a bed time snack shall be served. 3. Between the hours of 8 p.m. and 8 a.m. a bed time snack and breakfast shall be served.	To ensure children receive an adequate number of meals and snacks, the proposed regulation clarifies the timing of meals and snacks and adds that children arriving from a half-day morning program who have not had lunch must receive a lunch. For children's safety, the proposed regulation adds requirements for the sanitary preparation, storage, and transportation of food; and for cleaning of tables and high chair trays after each use.
22 VAC 40-110-890. Food groups; lunch and dinner	22 VAC 40-111-880. Meals and snacks provided by family day home.	Foods served to children for lunch and dinner shall consist of a variety of items selected from each of the following food groups: 1. Meat or meat alternates; 2. Fruits and vegetables; 3. Bread or bread alternates, e.g., pasta, rice, noodles, and cereal;	For clarity and to make the requirements consistent with those in the child day center regulation, the proposed regulation requires family day homes to follow the most recent, age-appropriate nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (UDSA) and children shall be allowed second helpings of food listed in the child care

		and 4. Milk unless a child is allergic to milk or milk products.	food program meal patterns.
22 VAC 40-110-890. Food groups; lunch and dinner.	22 VAC 40-111-890. Meals and snacks brought from home.	Providers shall supplement meals from homes that do not meet this standard or inform parents who provide meals from home that meals served to children must consist of a variety of foods from the four food groups	For clarity, the proposed regulation requires providers to provide extra food to children if they bring an inadequate meal or snack from home. For the children's safety, unused portions of food must be discarded by the end of the day or returned to the parent.
22 VAC 40-110-940. Water.	22 VAC 40-111-910. Drinking water and fluids.	Water shall be available for drinking and shall be offered on a regular basis to all children in care.	For children's safety and to make the requirement consistent with that in the child day center regulation, the proposed regulation adds that in environments of 80° or above, children shall be encouraged to drink liquids. To prevent the spread of disease, the regulation requires clean individual drinking cups and prohibits children's sharing common drinking cups.
22 VAC 40-110-960. Menus.	22 VAC 40-111-920. Menus.	When meals are provided by the family day home, menus shall be planned, written, dated and placed or posted at least a day in advance in an area accessible to parents.	The proposed regulation adds that snacks be included in the weekly menu. This is to incorporate the information from a guidance document issued in March 2000. To make the requirement consistent with that in the child day center regulation and to keep parents informed, the proposed regulation requires that any substituted food be listed on the menu.
22 VAC 40-110-990. Infant feedings. 22 VAC 40-110-1000. Formula labeling. 22 VAC 40-110-1010. Formula preparation.	22 VAC 40-111-960. Feeding infants.	Infants shall be fed on demand unless parents provide other written instructions. Infants who cannot hold their own bottles shall be picked up and held when fed. Bottles shall not be propped. Prepared infant formula shall be labeled with the individual child's name and kept in the refrigerator when not in use. If infant formula is heated in a microwave oven, precautions shall be taken to prevent scalding. Only	For children's safety, the proposed regulation adds that high chairs, infant carrier seats, or feeding tables with fastened safety waist and crotch straps must be used for feeding children under 12 months of age who are not being held; bottles must be labeled with a child's full name and date if more than one infant is in care; refrigerated bottles of prepared formula and breast milk must be discarded after 48 hours; bottles my not be heated in a microwave oven; heated formula and baby food must be shaken or stirred and tested for temperature before being served; a mother must be given access to a private area of the home to facilitate breast feeding. Solid foods may not be given to infants under 4 months of age without parental

		refrigerated formula shall be heated. When formula is heated in the bottles, the bottles shall be upright and uncovered. Heating time shall be no more than 30 seconds for four ounce bottles and no more than 45 seconds for eight ounce bottles. After heating and replacing nipples, bottles shall be turned up and down 10 times and the temperature tested by dropping milk on the top of the hand. The temperature of the milk shall be cool on the hand.	consent and must be fed with a spoon with the exception of finger foods. Baby food must be served from a dish and not the container; food remaining in the dish shall be discarded; opened containers of baby food shall be labeled with the child's name and dated, refrigerated, and discarded after 24 hours of storage.
	22 VAC 40-111-970. Special feeding needs.		For children's safety, the proposed regulation requires food for children with special needs to be of appropriate consistency for any special feeding needs of the child. Necessary and adaptive feeding equipment and techniques must be used for a child with special feeding needs.
22 VAC 40-110-800. [Transportation] General.	22 VAC 40-111-990. Requirements for drivers.	Whenever the provider or assistant transports enrolled children they shall: 1. Ensure that any vehicle used to transport children meets the standards set by the Code of Virginia and is equipped with the proper child restraining devices required by law to correspond with the ages of the children being transported; 2. Have a first aid kit, including an ice or chemical cold pack, in the vehicle used for transporting; 3. Have a copy of the parents' written authorization to transport the children; 4. Have the name, address and phone number of the family day	For children's safety, the proposed regulation adds that drivers must be 18 years of age, have a valid driver's license, and have a mechanism for making telephone calls to parents and emergency responders.

		home in the vehicle used for transportation; and 5. Have a copy of the children's emergency contact and medical information in their possession.	
	22 VAC 40-111-1000. Requirements for vehicles.		For children's safety and for consistency with the child day center regulation, the proposed regulation adds that vehicles must meet the safety standards set by the Virginia Department of Motor Vehicles, be kept in satisfactory condition, be licensed and insured according to state law; have been manufactured for the purpose of transporting people seated in an enclosed area, and have seats that are attached to the floor.
	22 VAC40-111-1010. Requirements for transportation.		For children's safety, the proposed regulation adds that during transportation, each child must be in an individual car seat or individual and appropriate restraint in accordance with Virginia law; children's arms, legs, and head must remain inside the vehicle; doors must be closed and locked; no child may be left unattended inside or outside a vehicle; and each child must board and leave the vehicle from the curb side of the street.
	22 VAC 40-111-1020. Nighttime care.		For the safety and comfort of children, the proposed regulation adds requirements for providers who offer nighttime care to children. Included are requirements for the rest area, cribs for infants, linens; activities, bedtimes established in consultation with the child's parents, separate sleeping and dressing areas for children of the opposite sex over 6 years of age. Each child must have a toothbrush and comb or hair brush assigned for individual use. Bath towels and washcloths, when used, must be assigned for individual use and laundered at least weekly. Each child 9 months of age and older must have flame-resistant or snug-fitting sleepwear. Each child must have a routine that encourages good personal hygiene practices including bathing (if needed) and teeth brushing. Caregivers must remain awake until all children are asleep and sleep on the same floor level as the children in care.

			A baby monitor must be used if the caregiver is not sleeping in the room with the child or in a room adjacent to the room where the child is sleeping

The regulation was reorganized for clarity. Sections on similar topics were consolidated to facilitate understanding by the providers and Licensing Inspectors.