

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADULT AND FAMILY SERVICES DIVISION**

**CHAPTER 1240-04-04
STANDARDS FOR FAMILY CHILD CARE HOMES**

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1240-04-04-.01 INTRODUCTION.

- (1) Purpose Of Licensing. The primary purpose of licensing is the protection of children. Minimum requirements seek to maintain adequate health, safety, and supervision of children while in a group care setting. Develop mental (comprehensive) child care provides appropriate educational experience, health services, and social services to children and their families.
- (2) Types Of Agencies. Child care services may be offered by family day care homes, group day care homes, day care or child development centers, nursery schools, day nurseries, and kindergartens - as well as schools or agencies providing before and after school care. Regardless of name, purpose, or auspices, all are subject to licensure unless exempt by law. (See specific definitions below:)
- (3) General Standards And Requirements.
 - (a) Issuance of a license is based on achievement in meeting and maintaining compliance with minimum standards or requirements, set forth in these rules. The license applies only to the agency, organization, or person(s) to which or to whom it is issued and only to the building and premises approved for the operation of the child welfare agency. In addition to state licensing requirements, it is the responsibility of the applicant/licensee to comply with all applicable local ordinances, including zoning ordinances and business tax licenses or other locally required permits.
 - (b) A day care home must comply with all requirements in these rules to receive an annual license. In addition to fire safety and environmental sanitation approval, the applicant must demonstrate good faith intent to comply with these rules before a conditional license may be issued. Failure to meet such requirements, or to demonstrate good intention in meeting them in the case of a conditional license, shall constitute grounds for denial of a license or for revocation of a license already issued.
 - (c) Appendices to these rules which contain fire safety, health, environmental sanitation regulations, summaries of applicable laws, and other information are incorporated herein by reference.
- (4) Legal Basis For Licensing. *T.C.A. § 71-3-501 et seq.* provide for defining, inspection, licensing, and regulation of child welfare agencies including day care homes. (See Appendix A for summary of applicable laws.) The Tennessee Department of Human Services has responsibility for licensing all such agencies offering child care to groups of children.

(Rule 1240-04-04-.01, continued)

(5) Definitions. For the purpose of this Chapter, the following definitions are applicable:

- (a) Annual License. An annual permit issued by the Department to a child welfare agency or to a child care system central operator, authorizing the licensee to provide child care in accordance with provisions of the license, the law, and requirements (rules) of the Department. Issuance of a license is not an endorsement of child care methods or of an agency's operational philosophy. A license is not transferable from one location to another or from one licensee/operator to another.
- (b) Approved Day Care Home. An approved day care home is a day care home which is related through contractual or employment arrangements to a central operator. The approved day care home must meet the same requirements and must have been evaluated by the central operator in the same manner as an individual licensed day care home.
- (c) Caregiver(s). Any person who provides all or part of the care of a group of children, including the primary caregiver.
- (d) Central Operator. The individual(s), or the corporation, partnership, cooperative, or other private or public entity of any kind, who or which, through their authorized representative(s), in addition to other activities, if any, owns, administers or operates a child care system. The central operator shall have ultimate responsibility for the administration/operation of any or all day care homes and child care centers in the system and shall, together with the primary caregiver, sign the application for a license. The central operator shall be the licensee.
- (e) Child. A person under 17 years of age.
- (f) Child Care. The wide variety of arrangements made by parents (or guardians) for the care outside of their home of children under 17 years of age, for less than 24-hour periods, without transfer of custody.
- (g) Child Care System. The existence of any day care homes approved or licensed and used by a licensed and incorporated day care agency or a licensed child-placing agency in its work; or the existence of two (2) or more facilities used for day care purposes which facilities are under ownership, administration or control of any individual(s), corporation, partnership, cooperative, or other public or private entity of any kind.
- (h) Commissioner. The executive head of the Department of Human Services, appointed by the Governor.
- (i) Conditional License. A permit issued by the Department to a new child welfare agency or to a new child care system central operator, permitting and authorizing the licensee to begin child care operations. It is valid for ninety (90) days and is issued upon application by the operator only if the staff and facility do not present any apparent hazards to the children that may be in care and only if the facility has received fire safety and environmental sanitation approval. If, at the end of the 90-day period, evidence is provided by the applicant/licensee that such child welfare agency is suitable and properly managed and that the agency is in compliance with these rules, the Department will issue an annual license to the child welfare agency.
- (j) Day Care. Synonymous with definition of child care, above.
- (k) Department (DHS). The Tennessee Department of Human Services and its representatives.

(Rule 1240-04-04-.01, continued)

- (l) Family Day Care Home. A home (an occupied residence) operated by a person for the purpose of receiving therein a minimum of five and a maximum of seven children under 17 years of age, who are not related (see definition below) to such person and whose parent(s) or guardian(s) are not residents in the same house, for less than 24-hours per day for care, without transfer of legal custody.
- (m) Group Day Care Home. Any facility operated by a person, social agency, corporation or institution, or any other group which receives a minimum of eight and a maximum of 12 children (and up to three additional school-age children who will only be present before and after school, on school holidays, on school snowdays, and during school summer vacation) for less than 24-hours per day for care outside their own homes, without transfer of legal custody. Before a group day care home opens, fire safety and environmental inspectors must approve the facility.
- (n) High School Diploma. As used in the context of caregivers' qualifications, refers to a document recognizing graduation from an accredited institution, public or private, based on the issuing state's required number of academic credits, including passing a GED test. As used in this Chapter, a certificate or statement of attendance or similar document or correspondence or video course do not qualify as or for a high school diploma.
- (o) Infant. A child who is six weeks through 15 months of age.
- (p) Law. The licensing law as contained in *T.C.A. §§ 71-3-501 through 71-3-530*, and related statutes or other referenced statutes or regulations.
- (q) Licensee. The person(s), agency(ies), or central operator to whom a license is issued and who must assume ultimate responsibility for a day care home or homes. In a single-site home, the licensee is the primary caregiver. In a child care system of approved homes, the central operator is the licensee. (The term as used herein also refers to an agency.)
- (r) Parent. A biological or adoptive parent, guardian, or custodian who has primary responsibility for a child.
- (s) Preschool Child. A person who is 31 months through five years of age. The term includes infants and toddlers.
- (t) Primary Caregiver. The adult who is responsible for direct care and supervision of children in a day care home and for the daily operation of a home. In a family day care home which is not operated by a central operator, the primary caregiver is the licensee. Duties may include hiring, training, and supervision of other caregivers.
- (u) Related. As used in this Chapter, any children under age nine of the following relationships by marriage, blood, or adoption: children, step-children, grandchildren, siblings, step-siblings, nieces, and nephews of the primary caregiver.
- (v) School-age Child. A person who is five years of age and in kindergarten or older (refers to kindergarten through grade six).
- (w) Staff. Full and part-time caregivers, employees, and volunteers if any.
- (x) Substitute. Paid or unpaid persons who are replacement for regular staff. The names, addresses, telephone numbers and dates of service shall be recorded for all substitutes in the staff personnel records of the home. Substitutes providing services

(Rule 1240-04-04-.01, continued)

for thirty-six (36) hours or more in a calendar year are required to have a criminal background check pursuant to 1240-04-04-.03(1)(a)6 and shall meet the same requirements for regular staff for physical examinations as required by 1240-04-04-.06(3); provided, however, for purposes of 1240-04-04-.03(1)(a)6, persons serving temporarily as caregivers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes for purposes of this rule.

- (y) Toddler. A child who is 16 months through 30 months of age.
 - (z) Volunteer. A person who provides services for a child care agency without payment and who is used to supplement regular staff or substitutes. The volunteer shall not be used to meet classroom adult:child ratios. The names, addresses, telephone numbers and dates of service for all volunteers shall be recorded in the staff personnel records of the home.
- (6) Procedures For Getting A License.
- (a) The Department offers one prelicensure consultation session. When an individual or group is giving consideration to opening a child care service/business, the local county office of the Tennessee Department of Human Services should be contacted. The individual or group will be given the name of a licensing representative who will serve as their consultant.
 - (b) The Department will offer prelicensure training to prospective providers of day care. Interested persons or groups should contact a licensing representative to determine the date of the next meeting in their area.
 - (c) The licensing representative will inform the interested individuals or entity of the appropriate time to apply for a license. The family day care home application fee is \$5.
 - (d) Upon satisfaction of the following minimum requirements, a conditional license may be issued:
 - 1. Primary caregiver's qualifications meet the requirements (see Chapter 1240-04-04-.03);
 - 2. Three satisfactory references for the primary caregiver are verified; and
 - 3. Physical facilities receive fire safety and environmental approval.
 - 4. If the staff and facility do not present any apparent hazards to the children in care.
 - (e) Receipt of an application begins the evaluation process which is completed with the issuance or denial of an annual license. This process includes:
 - 1. At least one unannounced visit to the day care home;
 - 2. Observation of caregivers' interaction with children;
 - 3. Review of agency records;
 - 4. Request for written and oral information related to licensure requirements; and

(Rule 1240-04-04-.01, continued)

5. Use of an evaluation checklist, itemizing requirements and noting compliance or noncompliance, a copy of which is left with the applicant.
 - (f) Upon issuance of an annual license, the licensee is expected to maintain compliance with requirements throughout the year.
 - (g) Near the end of a licensing term, the licensee will be notified by mail of a scheduled reevaluation for a new license. Application for renewal must be made prior to the expiration of the existing license. The reevaluation process is similar to the initial evaluation, but agencies receiving two consecutive annual licenses are rewarded with a shorter, less involved reevaluation and/or fewer reevaluations. A home accredited by the National Association for Family Day Care (NAFDC) may be reevaluated every three years. (See "Appendix A" for further information regarding the licensing process.)
- (7) Licensing Action And Appeal Rights. Procedures for applications, suspensions, denials, revocations of licenses and appeal rights as governed by Chapter 1240-05-01-01.
- (8) Grace Period. Because the amount of in-service training required has been increased, new agencies and new primary caregivers will be granted a reasonable grace period if needed to obtain the required hours of training.
- (9) Investigations Of Child Abuse And Neglect; Custodial Authority Of Children.
 - (a) A child care provider is required by law to cooperate with the Department and other investigators by reporting any suspected child abuse and neglect to the Department. The child care provider must further cooperate by providing access to the records of children and staff and by allowing investigators to interview children and staff.
 - (b) A child care provider should protect the child by requesting the investigator's identification and by knowing who is entitled to custody of the child. An investigator may take a child off of the premises of the agency if he/she has obtained custody of the child through voluntary placement agreement with the parent, through court order or through emergency assumption of custody under *T.C.A. § 37-1-113* without parental permission or if the child's parent or legal guardian is present and approves, or in conjunction with investigative procedures under the child abuse laws.
 - (c) Child care providers do not have a right to be present during interviews with staff or children or to receive information or results of the interviews or investigations concerning child abuse or neglect unless directly related to efforts to enforce the child abuse or licensing laws.

Authority: *T.C.A. §§ 4-5-201 et seq., 71-1-105, 71-3-501 et seq., and Acts 2000, ch. 981, §§ 8 and 14.*
Administrative History: *Original rule certified June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March, 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed April 30, 1996; effective July 14, 1996. Amendment filed September 29, 2000; effective December 13, 2000.*

1240-04-04-.02 OWNERSHIP AND ADMINISTRATION.

- (1) Ownership/Sponsorship.
 - (a) The licensee of a family day care home shall be the primary caregiver.
 - (b) A family day care home shall be the residence of the primary caregiver.

(Rule 1240-04-04-.02, continued)

- (c) The primary caregiver in a family day care home shall assume responsibility for daily operation of the home and shall meet specified qualifications prior to licensure. (See Chapter 1240-04-04-.03.)
 - (d) The central operator of a child care system shall have ultimate responsibility for the operations of any day care homes in the system. The central operator and the primary caregiver shall sign an application for a license for each home sponsored (unless sponsoring agency is classified public or unless homes are to be approved).
 - (e) The name, address, and phone number of an applicant, central operator, and all primary caregivers shall be made known to the Department of Human Services and to parents of children enrolled in the home(s) and shall become public record.
 - (f) The applicant/licensee shall notify DHS before changing location of a family day care home.
 - (g) Day care agencies sharing common land shall be located in separate facilities and shall not share equipment or facilities with the exception of outdoor equipment and play area, which shall be used by children from one agency at a given time.
- (2) Policies.
- (a) A new primary caregiver shall complete in the presence of the Licensing Counselor the "Checklist of Services" or write out a Statement of Purpose.
 - (b) A family child care home shall have written policies concerning
 1. Services offered;
 2. Provision for children's individual needs;
 3. The home's admission policies and enrollment procedures;
 4. Fees charged (if applicable) and plan for payment;
 5. Handling of children's personal belongings;
 6. If the agency provides transportation for children in the agency's care, the written statement required by 1240-04-04-.07(1)(a) describing transportation plans, procedures and equipment utilized in the transportation process and parental permission for trips away from facility;
 7. Criteria for the disenrollment of children [see expulsion policy requirements in 1240-04 04-.02(b)(18);
 8. Specific criteria concerning the release of children; includes responsibility until signed out;
 9. Written parental permission for observation of children by non-child care agency staff;
 10. Behavior management techniques;
 11. Hours of operation;
 12. Late fees;

(Rule 1240-04-04-.02, continued)

13. Rates;
 14. Inclement weather;
 15. Emergency policy;
 16. Whether the environment is smoke free;
 17. Meal Service policy; and
 18. The agency shall have a written expulsion policy.
 - (i) The policy shall be:
 - (I) Clearly articulated to staff and parents;
 - (II) Developmentally appropriate and consistent; and
 - (III) Non-discriminatory.
 - (ii) Other options shall be considered prior to expulsion, such as but not limited to reducing the number of days or amount of time the child may attend, or if applicable, referrals to the Center on the Social and Emotional Foundations for Early Learning (CSEFEL), Early Intervention System, Individuals with Disabilities Education Act (IDEA).
 - (iii) Procedures shall be developed to allow for a planned transition of a child to another program if expulsion must occur.
 - (iv) Aggregate data that includes reasons for expulsions shall be maintained and reported to the Department annually.
- (c) A policy statement signed by both the primary caregiver and the parent shall be given to the parent, and a signed copy or other documentation that parent received a copy shall be kept on file.
- (3) Enrollment Of Children And Parent Involvement.
- (a) Children shall be at least six weeks of age before entering day care.
 - (b) Prior to admission of children, the parent shall submit a completed information (application) form and current health record. [See 4(c) below and Chapter 1240-04-04-.06.]
 - (c) A copy of "Summary of Licensing Requirements" (furnished by the Department) shall be given to the parent(s) of each child enrolled.
 - (d) During normal hours of operation, parents shall be permitted access to their children and ready access to all licensed areas of the home and premises shall be granted to Department representatives and Inspection authorities (i.e., Fire Safety, Sanitation, and Health).
 - (e) Parents must be informed in advance of the child's removal from the premises except in cases of emergencies or pursuant to investigative procedures conducted pursuant to the child abuse laws.

(Rule 1240-04-04-.02, continued)

- (f) The agency shall not admit a child into care until the parent/guardian has supplied the agency with a completed application, valid Tennessee Department of Health Official Immunization Certificates record (for children over two (2) months of age), and a health history. Exception: After an initial eligibility determination, children who are homeless and/or children in state custody may receive care prior to providing all required documentation as determined by the Department. Care without documentation of immunizations shall not exceed thirty days.
 - (g) The agency shall maintain written documentation that the parent/guardian performed an on-site visit to the agency prior to the child being enrolled into care and that the agency provided and reviewed parent engagement strategies recognized by the Department with the parent during the required pre-placement visit. Exception: A pre-placement visit is not required for children of homeless families.
- (4) Records.
- The following records shall be kept and shall be available to the Department:
- (a) An annual operating budget (actual or projected), which includes a statement of income and expenditures. Adequate financing of the day care operation shall be maintained.
 - (b) Staff records including:
 - 1. Recommendations from three nonrelated references on each applicant and caregiver. The central operator's/primary caregiver's reference information shall be given to the licensing counselor;
 - 2. Training received during the year for each caregiver;
 - 3. Reserved;
 - 4. Adult health records.
 - (c) Children's health records.
 - (d) Daily attendance records on children; on staff if more than one caregiver.
 - (e) A record on each child which includes the following information:
 - 1. Name, date of birth, name of parent(s), home address, business address and telephone, work hours, child's background information, transportation plan, and the names of persons allowed to pick the child up.
 - 2. The following information shall be kept where it can be found quickly in an emergency: the name, address, and telephone number of the person parents wish to be called if they cannot be reached. The name, address, and telephone number of a doctor to call in an emergency, written permission of parent authorizing emergency medical care.
 - 3. A written plan of how the primary caregiver intends to communicate daily with parents of every child below 31 months of age.
 - (f) All children, including related children younger than age nine (9), shall have required records on file before care is provided. Exception: After an initial eligibility determination, children of homeless families and/or children in state custody may

(Rule 1240-04-04-.02, continued)

receive care prior to providing required documentation as determined by the Department.

- (g) Data Reporting - Agencies shall submit data as requested by the Department quarterly on topics such as but not limited to: active enrollment, homeless children, non-traditional hours, deaths/serious injuries, child abuse, English as a Second Language/dual language learners, and children with disabilities.
- (5) Right To Privacy/Confidentiality. The licensee and caregivers shall not disclose or knowingly permit the use of by other persons any information concerning a child or family except as required by law or regulation.
- (6) Posting Of License. During the hours of operation, an up-to-date license to operate a family day care home shall be posted near the main entrance where anyone entering may see it.
- (7) Liability and Medical Payment Insurance Coverage.
- (a) General liability, automobile liability and medical payment insurance coverage shall be maintained on the vehicles owned, operated or leased by the child care agency and on the operations of the child care agency's facilities.
- (b) Automobile liability coverage shall be maintained in a minimum amount of Three Hundred Thousand Dollars (\$300,000) combined single limit of liability. The requirement of this subparagraph only applies to child care programs that transport children.
- (c) General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of Three Hundred Thousand Dollars (\$300,000) per occurrence and Three Hundred Thousand Dollars (\$300,000) general aggregate coverage, or Three Hundred Thousand Dollars (\$300,000) per occurrence.
- (d) Medical payment coverage as the primary coverage, shall be maintained in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children being transported in vehicles owned, operated or leased by the child care agency under subparagraph (b), and in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children resulting from the operation of the child care agency under subparagraph (c).
- (e) The requirements of this paragraph shall not apply to an agency that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3) or that has, or whose parent entity has, a self-insurance program that provides, as determined by the Department, the coverages and the liability limits required by these rules.
- (f) Documentation that the necessary insurance is in effect, or that the administrative department or other entity is self-insured, shall be maintained in the records of the child care agency and shall be available for review by the Department's licensing staff.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-1-105(5), 71-3-105(5), 71-3-501 et seq., 71-3-502(a)(2), 71-3-502(4)(B), Acts 2000, ch. 981, §§ 3(a)(4) and 14, and Acts 2016, ch. 839.

Administrative History: Original rule certified June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed July 1, 1993; effective September 14, 1993. Amendment filed November 18, 1999; effective January 31, 2000. Amendment filed September 29, 2000; effective December 13, 2000. Amendment filed August 30, 2001;

(Rule 1240-04-04-.02, continued)

effective November 13, 2001. Amendment filed November 21, 2002; effective February 4, 2003. Emergency rules filed July 1, 2016; effective through December 28, 2016. Amendments filed September 28, 2016; effective December 27, 2016.

1240-04-04-.03 STAFF.

(1) Qualifications.

(a) All Caregivers.

1. Every staff person, including volunteers, practicum students, and substitutes, shall be physically, mentally, and emotionally capable of performing his/her duties satisfactorily.

(i) Drug Screening for Child Care Vehicle Drivers Upon Reasonable Cause.

(I) The Department, in its sole discretion, may require any individual, who drives or may drive at any time any vehicle transporting children on behalf of the agency or its contractors, to undergo a drug screening test when, in the Department's sole determination, there is reasonable cause to believe that such individual may have an impairment or possible impairment that potentially poses a risk of harm to children in the care of the agency caused by the use, or possession and potential use, of any drug. For purposes of this part, the term "drug" shall include alcohol.

(II) An individual directed to undergo such examinations or screenings may refuse to do so, but will not be permitted to drive a vehicle transporting children in the agency or have any further contact with children in the care of the child care agency until evidence is provided that is satisfactory, in the Department's discretion, to demonstrate that the individual does not represent a risk of harm to the children in the agency's care.

(ii) Safety Plans.

(I) The Department may require, in its sole discretion, the child care agency to enter into a safety plan approved by the Department that prohibits or limits such individual's contact with children in the care of the child care agency pending the outcome of such testing.

(II) The Department may otherwise require, in its sole discretion, that the child care agency enter into a long-term or permanent safety plan that prohibits or limits the driving duties by an individual described in part 1 for, or contact by such individual with, children in the care of the agency.

(III) Failure to adhere to the safety plan shall be grounds for action by the Department against the child care agency's license as permitted by T.C.A. § 71-3-508(c).

(IV) The child care agency, or any individual whose employment status is directly and adversely impacted by a safety plan or by refusal to undergo an examination as directed by the Department may, at any time during the existence of the plan or during the pendency of the directive for an examination, make written request to the Director of

(Rule 1240-04-04-.03, continued)

Licensing for an intradepartmental review of the safety plan. Such review shall be conducted by the Director or the Director's designee within ten (10) business days of receipt of the written request.

- (V) Any individual or child care agency that has received an adverse decision from the intradepartmental review set forth in subpart (IV) above, may appeal such safety plan to the Department by filing a written request for an administrative hearing before the Department's Administrative Procedures Division within ten (10) business days of the Director's decision. The hearing shall be held by the Division within twenty (20) business days of the receipt of the request for an administrative hearing.
 - (VI) Any safety plan that exceeds ninety (90) days when proposed or that continues for more than ninety (90) days may be appealed by the child care agency to the Child Care Agency Board of Review.
2. A person who has a physical, mental, or emotional condition which is in any way harmful to children shall not be present with the children.
 3. To be counted in the caregiver to child ratio, caregivers shall be at least 16 years of age and able to read and write, and be supervised by an adult.
 4. Caregivers shall be of suitable character to work with young children.
 5. Reserved.
 6. Criminal Background Check and State Registry/Records Review Procedures.
 - (i) Criminal Background and Abuse Registry Disclosures and Reviews; Fingerprinting Requirements.
 - (I) The following persons are required to have a background check no more than ninety (90) days before having access to any child care agency:
 - I. Any person who owns or operates a child care agency and will have significant contact with children;
 - II. Any person who applies to work in a child care agency as an employee, director or manager;
 - III. Any person who will provide substitute services to a child care agency for more than thirty-six (36) hours in a calendar year and who is counted in the adult: child ratio; and
 - IV. Any person who is fifteen (15) years of age or older who will reside in a child care agency.
 - (II) New background checks are required for all staff and residents when an agency moves from one class of care to another, such as when a family home becomes a group home or when an agency is sold and staff remain employed by the new owner or any time an agency is issued a license that is not the renewal of an existing license. Exception: Does not apply to background checks completed within the last ninety (90) days.

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- (III) Background checks are required for all staff at least every five (5) years.
- (IV) Requirements for Disclosure of Criminal/Juvenile and State Register History and Fingerprinting.
 - I. The individuals identified in subparagraph (1)(a) above shall:
 - A. Complete a criminal/juvenile administrative findings history disclosure form;
 - B. Submit fingerprint samples for a criminal and juvenile records background check; and
 - C. Complete a criminal, juvenile background check/state review consisting of:
 - (A) An investigation of a person's criminal background history by the Tennessee Bureau of Investigation (TBI) and through the Federal Bureau of Investigation's (FBI) national database;
 - (B) An investigation of a person's juvenile records history that is available to the TBI;
 - (C) A review of any available juvenile court records, if determined necessary by DHS;
 - (D) A search of the vulnerable persons registry (VPR), maintained by the Tennessee Department of Health;
 - (E) A search of the TN sexual offender registry (SOR), maintained by the TBI; and
 - (F) A search of the DCS registry of indicated perpetrators of abuse or neglect of children.
 - (G) A search of any state or federal registries required by the Child Care and Development Block Grant Act.
- (ii) Responsibility for Providing Fingerprint Sample; Prohibition of Contact with Children Prior to Completion of Criminal History Review.
 - (I) A child care agency, substitute pool, or staffing agency shall be responsible for registration of persons required to have a background check. The responsible entity shall ensure that the process is completed prior to employment.
 - (II) A child care agency may not permit any person who is required to have a background check to assume any role or to have access to children until the agency receives written verification from the Department that the person is cleared to work/reside in the agency.

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- (III) Failure to Complete or Disclose Information on Criminal Disclosure Form.
 - I. Failure to properly complete all sections of the Criminal/Administrative History Disclosure Form shall result in the individual being prohibited from assuming any position for which a background review is required.
 - II. Failure to disclose all criminal and administrative history information may result in the person being:
 - A. Excluded by the Department from working, directing, managing, operating, substituting, volunteering, residing in or acting as a licensee in any child care agency licensed by the Department; and
 - B. Referred to the appropriate district attorney for criminal prosecution.
- (IV) The Department will pay for the costs of performing one background check per person per agency per year.
- (V) The child care agency shall be responsible for costs associated with the background check if:
 - I. The fingerprint sample is rejected and the fingerprint sample must be resubmitted;
 - II. The agency submits a second fingerprint sample for an individual when the initial background check has not been completed; or
 - III. The agency submits a fingerprint sample for a purpose unrelated to obtaining approval for a prospective employee, volunteer, etc. to have access to child care.
- (iii) Prohibited Criminal, Juvenile, Vulnerable Persons or Sex Offender Registry, Abuse or Neglect or Driving History; Exclusion from Contact with Children.
 - (I) No person shall be employed, be a licensee or operator or, provide substitute services, reside, or have any access to children in a child care agency if the criminal background check identifies an excludable criminal offense for which the person has:
 - I. Been convicted of, pled guilty or no contest to (or to a lesser included offense);
 - II. Been, or currently is, the subject of a juvenile petition or finding that would constitute a criminal offense or lesser included offense if the child were an adult; or
 - III. Been named in a pending warrant, indictment, presentment, or petition.
 - (II) An excludable criminal offense involves:

(Rule 1240-04-04-.03, continued)

- I. The physical, sexual or emotional abuse or neglect of a child;
- II. A crime of violence against a child, or any person;
- III. Any offense, including a lesser included offense, involving the manufacture, sale, distribution or possession of any drug; or
- IV. Any offense that presents a threat to the health, safety or welfare of children.
- V. The criminal offenses for which a person will be excluded from a child care agency include but are not limited to the following offenses as well as their lesser included offenses (even if not listed here):
 - A. Aggravated arson (T.C.A. § 39-14-302);
 - B. Aggravated assault (T.C.A. § 39-13-102);
 - C. Aggravated child abuse (T.C.A. § 39-15-402);
 - D. Aggravated child neglect (T.C.A. § 39-14-302);
 - E. Aggravated cruelty to animals (T.C.A. § 39-14-212);
 - F. Aggravated kidnapping (T.C.A. § 39-13-304);
 - G. Aggravated rape (T.C.A. § 39-13-502);
 - H. Aggravated rape of a child (T.C.A. § 39-13-531);
 - I. Aggravated robbery (T.C.A. § 39-13-402);
 - J. Aggravated sexual battery (T.C.A. § 39-13-504);
 - K. Aggravated sexual exploitation of a minor (T.C.A. § 39-17-1004);
 - L. Aggravated vehicular homicide (T.C.A. § 39-13-218);
 - M. Arson (T.C.A. § 39-14-301);
 - N. Assault (T.C.A. § 39-13-101);
 - O. Carjacking (T.C.A. § 39-13-404);
 - P. Child abuse, child neglect or endangerment (T.C.A. § 39-15-401);
 - Q. Criminal attempt, under T.C.A. § 39-12-101, to commit any criminal offense that requires exclusion from child care;
 - R. Criminal exposure to HIV (T.C.A. § 39-13-109);

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- S. Criminal homicide (T.C.A. § 39-13-201);
- T. Criminally negligent homicide (T.C.A. § 39-13-212);
- U. Cruelty to Animals (T.C.A. § 39-14-202);
- V. Custodial interference (T.C.A. § 39-13-306);
- W. Domestic abuse in violation of an order of protection or in violation of a restraining order (T.C.A. § 39-13-113);
- X. Domestic assault (T.C.A. § 39-13-111);
- Y. Drug offenses (felony or misdemeanor, possession, manufacturing, sale, distribution, etc.);
- Z. Especially aggravated burglary (T.C.A. § 39-14-404);
- AA. Especially aggravated kidnapping (T.C.A. § 39-13-305);
- BB. Especially aggravated robbery (T.C.A. § 39-13-403);
- CC. Especially aggravated sexual exploitation (T.C.A. § 39-17-1005);
- DD. Exploitation of a minor by electronic means (T.C.A. § 39-13-529);
- EE. False imprisonment (T.C.A. § 39-13-302);
- FF. First degree murder (T.C.A. § 39-13-202);
- GG. Incest (T.C.A. § 39-13-302);
- HH. Indecent exposure (T.C.A. § 39-13-511);
- II. Involuntary labor servitude (T.C.A. § 39-13-307);
- JJ. Kidnapping (T.C.A. § 39-13-105);
- KK. Rape (T.C.A. § 39-13-503);
- LL. Rape of a child (T.C.A. § 39-13-522);
- MM. Reckless endangerment (T.C.A. § 39-13-103);
- NN. Reckless homicide (T.C.A. § 39-13-215);
- OO. Robbery (T.C.A. § 39-13-401);
- PP. Second degree murder (T.C.A. § 39-13-210);
- QQ. Sexual battery (T.C.A. § 39-13-505);
- RR. Sexual battery by an authority figure (T.C.A. § 39-13-527);

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- SS. Sexual exploitation of a minor (T.C.A. § 39-17-1003);
 - TT. Solicitation of a minor (T.C.A. § 39-13-528);
 - UU. Stalking (T.C.A. § 39-17-315);
 - VV. Statutory rape (T.C.A. § 39-13-506);
 - WW. Statutory rape by an authority figure (T.C.A. § 39-13-532);
 - XX. Trafficking a person for sexual servitude (T.C.A. § 39-13-309);
 - YY. Vehicular assault (T.C.A. § 39-13-106);
 - ZZ. Vehicular assault while intoxicated (T.C.A. § 39-13-106);
 - AAA. Vehicular homicide (T.C.A. § 39-13-213);
 - BBB. Voluntary manslaughter (T.C.A. § 39-13-211); and
 - CCC. Weapons offenses (unlawful possession, carrying, use, etc.).
- (III) No person may be employed as a driver or serve as a driver for a child care agency if the person:
- I. Is currently charged with; or
 - II. Has been convicted of, or pled guilty, within the last five (5) years to any of the following criminal offenses:
 - A. Vehicular homicide;
 - B. Accidents involving death or personal injury;
 - C. Accidents involving damage to a vehicle;
 - D. Driving under the influence of an intoxicant, drug or drug producing stimulant; or
 - E. Any felony involving the use of a motor vehicle while under the use of any intoxicant.
- (iv) Exclusion from access to child care based on a listing on a state registry.
- (I) No person shall be employed, be a licensee or operator, provide substitute services, reside, or have any access to children in a child care agency if the results of the state registry review identify the person as being:
- I. Listed on the Vulnerable Persons Registry;
 - II. Listed on the Sexual Offender Registry; or

(Rule 1240-04-04-.03, continued)

- III. Indicated in the records of the Department of Children's Services as a perpetrator of abuse or neglect of a child.
 - (v) Supplemental Background Checks Subsequent to Licensing, Employment or Residence in a Child Care Agency.
 - (l) The Department may, at any time, require a new background check of any individual with access to children in a child care agency.
 - I. For an individual who was not subject to a background check prior to assuming a role, the individual's existing status in their role shall be conditional upon the satisfactory outcome of any requested background check.
 - (vi) Any person who is excluded shall remain excluded pending the outcome of any appeals or waiver review or any determination that the basis for exclusion no longer exists.
 - (vii) An individual will also be excluded if a criminal or juvenile proceeding, registry or administrative background review requiring exclusion or any other provision of law is discovered and verified in any manner.
 - (viii) If a child care agency, substitute pool or staffing agency receives information from a source other than the Department that requires them to exclude an employee, substitute, volunteer, or resident they shall immediately exclude the person from any access to children and notify the Department on the same business day by calling the child and adult care complaint hotline.
 - (ix) The exclusion of such persons from access to child care shall be conducted pursuant to T.C.A. § 71-3-507 and this rule.
 - (x) Failure of a child care agency to perform the required background check before allowing a person access to child care or to immediately exclude individuals with a criminal history or state registry review status that requires exclusion, shall be the basis for the immediate suspension, denial or revocation of the child care agency's license.
7. Reserved
 8. All caregivers shall be able to explain emergency procedures to follow in case of fire, serious injury or illness of a child or a caregiver, or disaster.
 9. All caregivers shall have training in detection, reporting, and prevention of child abuse.
 10. All caregivers shall have a minimum of two hours training annually, in addition to other required training in specific subject areas.
- (b) Primary Caregiver.
 1. A primary caregiver or any substitute for him/her, shall be 18 years of age or older.
 2. A primary caregiver shall be able to read and write English.

(Rule 1240-04-04-.03, continued)

3. A primary caregiver shall complete a DHS-sponsored child-care orientation class within three months of licensure.
 4. A primary caregiver shall annually complete at least four hours of workshops or other training, or present evidence of four hours of consultation or of personal study (one-time only), in child care or a related field. After the first year of licensure, this training shall be in addition to other required training [such as Child and Adult Food Care Program (CAFCP), personal safety or first aid, etc.].
 5. A primary caregiver shall not be employed at any other occupation during child care operating hours.
- (c) Central Operator.
1. In order to receive a license, the central operator or person in charge of a child care system (or multiple homes) shall have:
 - (i) Graduated a four-year college or university and completed one year of full-time work experience with a group of young children; or
 - (ii) Completed some formal college training in early childhood education or child development (or related field), or received a Child Development Associate (CDA) credential or National Association of Family Day Care (NAFDC) accreditation, and completed one year of full-time work experience with a group of young children; or
 - (iii) A high school diploma or its equivalent (See "Definitions" in Chapter 1240-04-04-.01) and two years full-time work experience with a group of young children.
 2. The central operator or person in charge of the child care system shall complete a DHS-sponsored child-care orientation class within three months of licensure.
- (d) Prior to assuming duties, each new employee shall receive documented instruction in, and have a working knowledge of:
1. Program philosophy and policies;
 2. Job description;
 3. Emergency health and safety procedures;
 4. Behavior management procedures;
 5. Detection, reporting, and prevention of child abuse;
 6. Procedures for receiving and releasing children;
 7. Safe sleep procedures;
 8. Shaken baby syndrome/abusive head trauma;
 9. Meal service and safe food preparation policies;
 10. Supervision during high risk activities such as eating and outdoor play;

(Rule 1240-04-04-.03, continued)

11. Food allergies;
 12. Expectations for communications with parent/guardian;
 13. Disease control and health promotion;
 14. An overview of licensing requirements;
 15. Information on risks of Cytomegalovirus (CMV) to female employees of childbearing age;
 16. A minimum of two (2) hours pre-service training as recognized by the Department; and
 17. Documentation of the requirements in this subparagraph (h) shall be maintained in the staff file.
- (e) Ongoing Training Requirements – any ongoing training required for employees shall include health and safety topics, such as but not limited to:
1. Prevention and control of infectious diseases (including immunization);
 2. Prevention of sudden infant death syndrome and use of safe sleeping practices;
 3. Administration of medication, consistent with standards for parental consent;
 4. Prevention of and response to emergencies due to food and allergic reactions;
 5. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
 6. Prevention of shaken baby syndrome and abusive head trauma;
 7. Emergency preparedness and response planning for emergencies resulting from an actual disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a);
 8. Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
 9. Precautions in transporting children (if applicable); and
 10. First aid and pediatric cardiopulmonary resuscitation.
- (2) Caregiver To Child Ratios And Supervision.
- (a) An adult caregiver (at least 18 years of age) shall be present and supervising children in care at all times.
 - (b) The total number of children (including “related” children under nine years of age) shall not exceed 12. (See Chapter 1240-04-04-.01 for definition of “related”.)
 - (c) A family day care home shall comply with one of the following two options at all times.

(Rule 1240-04-04-.03, continued)

1. Family Day Care Homes with One Caregiver:
 - (i) The total number of children in a family day care home with one caregiver shall not exceed seven, including 'related' children under nine years of age, and
 - (ii) In a home with one caregiver, the number of children under two years of age shall not exceed four.
2. Family Day Care Homes with More than Seven Children:
 - (i) If the number of children, including the primary caregiver's "related" children (See Chapter 1240-04-04-.01 for definition of "related"), exceeds seven, one of the following options shall be met at all times:

Option	Group Size and Ages	Caregivers Required
A	More than 7 children (including "related" children under age 9), no more than 4 under age 2.	2
B	More than 7 children (including "related" children under age 9), with more than 4 under age 2.	3

- (d) If any child's physical or mental condition requires special care, or when a field trip is taken off premises, the number of caregivers required (any option) shall be increased by one.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-209, 71-1-105, 71-3-501 et seq., 71-3-502(a)(2), 71-3-508(c), Acts 2000, ch. 981, §§ 8 and 14, Acts 2003, Ch. 412, § 2, and Acts 2016, ch. 839. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed July 1, 1993; effective September 14, 1993. Amendment filed September 29, 2000; effective December 13, 2000. Amendment filed September 29, 2003; effective December 13, 2003. Emergency rules filed July 1, 2016; effective through December 28, 2016. Amendments filed September 28, 2016; effective December 27, 2016.

1240-04-04-.04 EQUIPMENT.

- (1) General.
 - (a) All equipment shall be well made and safe with no sharp edges, splinters, or other conditions which present a hazard for children.
 - (b) Unsafe equipment shall be repaired or removed from the day care home or play yard at once.

(Rule 1240-04-04-.04, continued)

- (c) Babies and toddlers shall have additional equipment for comfort and safety, such as cribs, high chairs, etc.
 - (d) School-aged children shall have educational materials such as puzzles, craft items, etc., and equipment suitable for their size, interests, and needs.
- (2) Indoor Play Equipment.
- (a) The day care home shall have play equipment for active and quiet play, suitable for the children's ages and interests and for children with special needs, and for all activities required in the Program Section. (See Chapter 1240-04-04-.05.)
 - (b) Play materials and equipment shall be in sufficient quantity to provide twice as many activities as there are children at a given time.
 - (c) Play materials and equipment shall be placed in such a way that children can get it and return it when needed, so that they can grow in independence.
- (3) Outdoor Play Equipment.
- (a) Enough play equipment shall be provided so that each child can take part in many kinds of play each day.
 - (b) Equipment shall be placed to avoid accidents, for example, swings placed out of traffic paths.
 - (c) If there are climbers or swings, they shall be placed on a resilient surface and not over concrete, asphalt, or a similar surface such as hard-packed dirt.
 - (d) Climbers, swings, and other large equipment shall be securely anchored.
 - (e) If used, retainer structures for loose material, such as sand or pea gravel, shall be placed at least six (6) feet from the perimeter of play structures.

Authority: T.C.A. §§ 71-1-105(12) and 71-3-501 et seq. **Administrative History:** Original rule filed June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed April 30, 1996; effective July 14, 1996.

1240-04-04-.05 PROGRAM.

- (1) Activities.
- (a) A balanced daily program of developmentally appropriate activities shall be provided which includes some of the following: reading to and talking with children; art and music activities; building and manipulating toys; and dramatic play activities such as doll play, housekeeping, and role play. Children shall also be allowed to participate in age-appropriate home-type activities, such as cooking, cleaning, gardening, and washing clothes as a meaningful learning experience.
 - (b) There shall be a written and posted schedule of daily routine activities.
 - (c) Children shall be given opportunity to make their own choices in some activities. Other play activities shall be planned by the caregiver.

(Rule 1240-04-04-.05, continued)

- (d) Children shall not spend all day in one room, unless the room has at least 30 square feet of usable play space per child.
 - (e) Television, video tapes, and movies shall be limited to two hours per day and to programs designed for children's education and/or enjoyment. Programs/movies with violent or adult content (including "soap operas") shall not be permitted in children's presence. Other activities shall be available to children during television/movie viewing.
 - (f) Except when the weather is extremely bad, children of all ages (including infants and toddlers) shall have outdoor play each day.
- (2) Discipline.
- (a) Discipline techniques used shall be positive, appropriate to the age level and needs of children in care; designed to help children learn and maintain self-control and self-esteem; and shall not involve physical punishment, or deprivation of food, rest, or toileting. (Physical or corporal punishment is the infliction of bodily pain as a penalty for the child's behavior of which the punisher disapproves.)
 - (b) Praise and encouragement of good behavior shall be used instead of noticing only unacceptable behavior.
 - (c) Punishment which is shaming, humiliating, frightening, or injurious to children shall not be used.
- (3) Physical Care And Naps.
- (a) Preschool children shall have a reclining rest period according to their individual needs. School-aged children shall be allowed to nap if needed but not forced to do so.
 - (b) Each toddler who is able to walk and each preschooler shall have individual napping space, something soft and at least two inches thick to sleep on, and clean bedding. (Examples: couch with cover thick sleeping bag or foam pad, family bed with cover, or cot with cover.)
 - (c) Each child under 15 months of age and any child unable to walk shall have his/her own crib or playpen and bedding for napping.
 - (d) Because of the risk of Sudden Infant Death Syndrome (SIDS), sleeping infants (under 13 months) shall be checked every 30 minutes by touching them. If a child appears not to be breathing, emergency medical assistance shall be sought immediately.
 - (e) Each child shall have his or her own clean sheet and coverlet.
 - (f) After a child has rested for a reasonable period, she/he shall be allowed to get up.
- (4) Physical Care - Toilet Training.
- (a) Toilet training shall never be started until a child has been in the day care home long enough to feel comfortable.
 - (b) Toilet training shall not be started until a child is able to understand, to do what is asked of them, and to let their need to use the bathroom be known.
 - (c) Children shall not be made to sit on the potty or toilet for more than five minutes.

(Rule 1240-04-04-.05, continued)

(d) Children shall be diapered or cleaned when needed in a safe, sanitary manner.

(5) Personal Safety Curriculum.

(a) For ages three (3) through school-age, a curriculum shall be offered that shall include instruction, at least once a year, in personal safety.

(b) Personal Safety Curriculum Components and Guidelines.

1. The personal safety curriculum shall include a Department-recognized component for the prevention of child abuse, including, for children four (4) years of age and older, a child sexual abuse prevention component.

2. The curriculum shall be based upon curriculum guidelines provided by the Department to the child care provider in any suitable format. The child care provider may choose terminology and instructional methods for this curriculum with a goal of providing clear, effective and appropriate instruction to the children in personal safety, including the prevention of all forms of child abuse.

(c) Personal Safety Instruction Requirements for School-Age Children.

1. For school-age children, the curriculum shall include instruction for reporting physical, sexual or verbal abuse.

2. Children of school-age shall not be required to receive personal safety instruction from the child care agency if they annually receive personal safety instruction as required by this paragraph (5) in the curriculum of their local public education agency, or, if they receive such instruction in any other educational setting, as approved, in either circumstance, by the Department.

3. Documentation of Personal Safety Instruction in Educational Settings.

(i) Written documentation, in a form and manner approved by the Department, verifying that annual personal safety instruction as required by this paragraph (5) is being provided in a public educational setting to each child enrolled in the child care agency, shall be maintained on file with the Department.

(ii) For children who do not attend public schools, the child care provider shall secure and maintain documentation, in a form and manner approved by the Department, verifying that each school-age child enrolled in the child care agency is receiving annual personal safety instruction as required by this paragraph (5).

(d) Beginning October 1, 2008, the personal safety curriculum used by a child care agency shall be made available by the child care agency to parents and legal guardians for review. The child care agency shall use a standard notification form developed by the Department that will be provided to the parents or legal guardians by the child care agency to confirm that the parents/guardians have been notified of the curriculum to be used and of their opportunity to review the personal safety curriculum.

(e) The record of each enrolled child shall include a copy of the signed notification form acknowledging that parents/legal guardians have been provided an opportunity to review the agency's personal safety curriculum, and have been notified of the sexual abuse/personal safety curriculum for their child.

(Rule 1240-04-04-.05, continued)

- (f) If parents/legal guardians have questions regarding the personal safety curriculum, a representative of the child care agency shall meet with the parents/legal guardians to discuss the curriculum.

Authority: T.C.A. §§ 4-5-202; 4-5-209, 71-1-105(12) 71-3-501 et seq., 71-3-502, 71-3-502(l) and 2008 Tenn. Pub. Acts 1032. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Public necessity rule filed October 1, 2008; effective through March 15, 2009. Amendment filed December 29, 2008; effective March 14, 2009.

1240-04-04-.06 HEALTH AND SAFETY.

- (1) Children's Health Records.
 - (a) Before a preschool child older than eight weeks is accepted for care, he/she shall have proof of being age-appropriately immunized against the following diseases: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, and Hemophilus Influenza Type "B" by having a certification form signed or stamped by a certified health care provider. (Children of six through eight weeks of age may be enrolled before immunizations are begun.)
 - (b) Records of children older than 18 months shall state whether immunizations required for care are complete, and if not complete, when future immunizations will be given. If immunizations are not continued on time by the parent, the child shall not remain in care. If a child has any known allergies, they shall be indicated in the child's health record. Foreign-born children shall also present evidence of Tuberculosis (TB) screening. (See Appendix B for information about TB screening.)
 - (c) A copy of each infant/toddler's or preschool child's immunization record shall be on file in the day care home and available to appropriate staff. (Children of six through eight weeks of age may be enrolled before Immunizations are begun.)
 - (d) Before a school-aged child is accepted for care, the caregiver shall have on file a statement from the parent (or school) that the child's immunizations are current and that their health record is on file at the specified school which the child attends.
 - (e) If children with mental, physical or sensory impairment or with a medical disorder are enrolled, their health records shall include a physician's statement which identifies the disabling condition and which gives the physician's special instructions for the child's care.
 - (f) Before infants or toddlers aged 30 months and under are enrolled, they shall have proof of a physical examination within three months prior to admission, signed or stamped by a physician or health care agency. Each infant shall have on file an official health record of the first medical check-up at eight weeks of age.
 - (g) Exceptions to the above requirements in this section shall be made when:
 - 1. The child's physician or the Department of Health provides a signed and dated statement, giving a medical reason why the child should not be given a specified immunization; or

(Rule 1240-04-04-.06, continued)

2. The child's parent provides a written statement that such immunizations conflict with his/her religious tenets and practices.
 3. Care for children of homeless families and/or children in state custody is needed before documentation of immunizations can be confirmed. Care without documentation of immunizations shall not exceed thirty days.
- (h) Accidents and injuries to children shall be noted in their records (including date and time occurred) description of circumstances and action taken by caregivers.
- (2) Children's Health Requirements.
- (a) Children shall be checked upon arrival and observed for signs of communicable disease during the day. Every sign of illness or injury shall be reported to the parent as soon as possible but no later than the end of the day in which it occurred.
 - (b) Parents of every child enrolled shall be notified if one of the following communicable diseases has been introduced into the day care home: Hepatitis A, food borne outbreaks (food poisoning), Salmonella, Shigella, Measles, Mumps, Rubella, Pertussis, Polio, Hemophilus Influenza Type B, Meningococcal meningitis. Providers shall report the occurrence of the above diseases to local health department.
 - (c) Prescribed and nonprescribed, internal and external medication shall not be administered to a child except under the direction of a physician or with the parent's written authorization. Medications or drugs shall be labeled with the child's name and specific instructions for administering them. Administration of medications and noticeable side effects shall be charted and reported to parents. Medication shall not be handled by children and shall be stored so as to be inaccessible to children.
 - (d) Good hygiene shall be practiced, such as frequent handwashing; one-time use of tissues, napkins, and washcloths; proper storage and use of personal articles; and hygienic diapering techniques.
- (3) Caregiver's Health Requirements.
- (a) Before beginning to work, each caregiver shall have written evidence of a physical examination and statement that the caregiver's general physical and mental condition will permit the individual to direct and actively participate in the activities of a group of young children. The form or statement shall be signed or stamped by a physician.
 - (b) An updated statement of each caregiver's physical health shall be obtained every third year or more often, if deemed necessary by the Department. A statement of a caregiver's mental or emotional health shall be obtained from a psychiatrist or clinical psychologist, when deemed necessary by the Department.
 - (c) Each caregiver (whether employed full-time or part-time), volunteers, and others who are in contact with the children 30 or more calendar days per year shall have on file evidence of a tuberculin skin test or chest X-ray with negative results, in accordance with Department of Health recommendations. (See guidelines in Appendix B.)
 - (d) Caregivers shall not smoke while physically interacting with the children. Parents shall be informed if anyone in the home smokes.
 - (e) For the protection of children and adults, caregivers and helpers shall wash their hands immediately after changing a child's diaper, or aiding in toileting, before changing or aiding another child.

(Rule 1240-04-04-.06, continued)

- (f) For the protection of children and adults, when blood is to be handled (e.g., resulting from injury to a child or adult, from nosebleed or from spillage), vinyl or latex gloves shall be used and properly disposed of following use with/by one individual.
 - (g) Following a diaper change or blood spillage, surfaces shall be cleaned and sanitized with a solution of 1/4 cup chlorine bleach to one gallon of water.
- (4) Safety.
- (a) The primary caregiver shall have evidence of completing, or being currently enrolled in, a pediatric First Aid course (a minimum of three hours) taught by a qualified instructor. (See Recommendations.)
 - (b) The primary caregiver shall have evidence of completing, or being currently enrolled in, a pediatric CPR course (a minimum of three hours) taught by a qualified instructor. (See Recommendations.)
 - (c) First aid information shall be posted, and caregivers and helpers shall be familiar with it.
 - (d) A First Aid kit shall be available to staff. The contents shall include a digital thermometer, bandages, and other items listed in "Appendix C".
 - (e) The home shall have a working telephone accessible to caregivers for incoming and outgoing calls.
 - (f) These telephone numbers shall be posted near the telephone: Fire Department, Law Enforcement, Hospital, Child Abuse Hotline, Civil Defense/Emergency Management, and numbers where parents may be reached. Rescue Squad, Ambulance and Poison Control Center numbers shall also be posted if available in the community.
 - (g) All homes shall annually present a child sexual abuse prevention program to children enrolled in and cared for by the home.
 - (h) Suspected abuse or neglect of a child shall be reported immediately to the local DHS office. Failure to do so is, by itself, grounds to deny or revoke the agency's license.
 - (i) The primary caregiver shall be reasonably prepared to protect children in the event of a disaster by knowing who to contact and how to cooperate with the local Emergency Management Plan.
 - (j) Emergency transportation shall be planned for and shall be provided as needed.
 - (k) Firearms and other deadly weapons or tools on the premises shall be secured in such a way that they are inaccessible to children.
 - (l) Use of swimming pools shall comply with Environmental Sanitation Regulations in "Appendix E". Wading pools which have not been approved by the environmentalist shall not be used.
 - (m) Pets shall be vaccinated in accordance with a Veterinarian's recommendation. Unconfined pets and children shall not be together on a regular basis. An adult shall be present while pets are with children. Animals and birds shall not be allowed in areas of food storage preparation, or service.

(Rule 1240-04-04-.06, continued)

Authority: T.C.A. §§ 4-5-202, 37-1-603(b)(1)(A), 71-1-105 (5) and (12), 71-3-501 et seq., 71-3-502(a)(2), and Acts 2016, ch. 839. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Emergency rules filed July 1, 2016; effective through December 28, 2016. Amendments filed September 28, 2016; effective December 27, 2016.

1240-04-04-.07 TRANSPORTATION.

- (1) Management Responsibility, Loading\Unloading and Verification Procedures; Staff Qualifications.
 - (a) Management Responsibility.
 1. Existing child care agencies, or those applying or re-applying for licenses, that provide transportation services, must provide a written statement to the Department describing:
 - (i) The type(s) of transportation that will be offered, e.g., from the child's home to the child care agency, from the child care agency to the child's school, etc.;
 - (ii) The types of vehicles that will be used for the transportation of children, e.g., a 1999 fifteen (15) passenger Ford van;
 - (iii) Any contracts, agreements or arrangements with any third parties for the provision of transportation services;
 - (iv) The provider's plan for maintaining compliance with the transportation time limits set forth in 1240-04-04-.07(6);
 - (v) The provider's policy and procedures for maintaining compliance with the transportation verification procedures set forth in 1240-04-04-.07(1)(b);
 - (vi) The provider's policy and procedures for attaining and maintaining compliance with child restraint procedures required by: these rules; Tennessee Code Annotated, Title 55, Chapter 9, Part 6; applicable Federal Motor Vehicle Safety Standards relative to child safety restraints, and; the child restraint and vehicle manufacturer's design requirements for the type of child restraints and vehicles used to transport children; and
 - (vii) The provider's policy and procedures for the emergency evacuation of the vehicle.
 2. The child care home's management shall be fully responsible for the transportation of children between home and the child care home, to or from school, and/or on field trips on any vehicle which it operates, for which it contracts or which is otherwise under its direction or control.
 3. Vehicles used to transport children and which are owned or operated by, contracted for or which are otherwise under the direction and control of the child care agency, shall carry automobile liability insurance coverage for each vehicle used for that purpose in the minimum amounts required by Rule 1240-04-04-.02(7).

(Rule 1240-04-04-.07, continued)

(b) Loading\Unloading and Verification Procedures.

1. The driver of the vehicle or any other designated staff person riding on the vehicle shall use a passenger log to record the name of each individual child received for transport as the child enters the vehicle. No child shall be accounted for by use of a single entry in the log that would include all, or part, of a group of other siblings or relatives with the same last name and with whom the child is being transported. For example, three (3) siblings with the same last name, e.g., "Doe", who are transported on the same vehicle shall not be recorded by the single entry "Doe" which only records the group's last name and is used by the child care home to signify that all three (3) "Doe" children are accounted for. Each child shall, instead, be separately listed by first and last name.
2. During transportation, the passenger log shall be used to take roll each time the vehicle makes a stop as each child is loaded or unloaded.
3. Whenever children being transported are released from the vehicle to their parent or other designated person, the passenger log shall immediately be updated to reflect which children have been released.
4. Immediately upon unloading the last child/children from the vehicle, and to ensure that all the children being transported have been unloaded, the driver and any other staff members riding on the vehicle shall immediately deliver the passenger log to the person designated by the child care home in part 5 and shall immediately:
 - (i) physically walk through the vehicle; and
 - (ii) inspect all seat surfaces, under all seats in all compartments or recesses in the vehicle's interior.
5. Additional caregiver/staff review and verification requirements.
 - (i) The child care home shall also designate a caregiver or management level staff person, other than the person responsible for the recording in the passenger log on the vehicle, who shall provide additional review and additional verification that the children have been unloaded from the vehicle and properly accounted for.
 - (ii) When unloading children at the child care home or field trip destinations, or when, prior to being parked at the child care home or other location, and to ensure that all children have been unloaded, the person designated pursuant to subpart (i) of this part 5 shall also immediately request the passenger log from the person on the vehicle responsible for maintaining the log and shall immediately:
 - (I) reconcile the passenger log with the children's attendance records; and
 - (II) conduct the same inspection as required in subparts (1)(b)4(i) and (ii) above.
 - (iii) Verification of the passenger logs and attendance records required by this subparagraph (b) shall be made by having the printed name of the persons who complete the logs and records written or printed on the passenger log and attendance record accompanied by the handwritten initials of such

(Rule 1240-04-04-.07, continued)

persons. Passenger logs and attendance records shall be maintained for a period of one (1) year or until the next re-evaluation of the family child care home for an annual license, whichever is first.

6. The driver or any accompanying staff member shall assure that every child is received by a parent or other designated person.
 7. When children are transported to school, they shall be released in accordance with the following procedures:
 - (i) the children shall be unloaded only at the location designated by the school;
 - (ii) the children are only allowed to unload from the family child care home's vehicle at the time the school is open to receive them;
 - (iii) the driver/caregiver shall watch the children who are unloaded from the vehicle walk through the entrance door designated by the school for the children; and
 - (iv) any additional procedures established by the school.
 8. The provisions of this subparagraph (b) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service that is under the direction or control of a child care agency, that provides such services for children enrolled in the child care agency.
- (c) Transportation Staff Qualifications.
1. Driver License Requirements.
 - (i) All persons responsible, or who may in the course of their duties become responsible, at any time, for driving a vehicle that transports children enrolled in the child care agency, shall hold, at a minimum, a current Tennessee driver license with an "F" ("for hire") endorsement pursuant to T.C.A. § 55-50-102(20)(F) unless such persons already have an endorsement or hold a license which the Department of Safety recognizes as inclusive of the "F" endorsement requirements, or shall hold such other license or endorsement provided for by State law or regulation governing driver qualifications for the type or size of vehicle used, or which may otherwise govern driver qualifications, for transportation of children enrolled by licensed or approved child care agencies.
 - (ii) Effective January 1, 2004, all persons subject to this part 1 shall obtain a certification document from the Department of Safety to signify that they have passed additional written or skills tests required for persons who may, in the course of their duties drive a vehicle that transports children enrolled in a child care agency.
 - (iii) Effective January 1, 2004, all persons subject to this part 1 shall be required to obtain annual training that is utilized for school bus drivers offered by the Department of Safety or such other equivalent training as the Department of Safety may determine is appropriate.

(Rule 1240-04-04-.07, continued)

- (iv) Evidence of completion of the requirements in subparts (i)-(iii) for each person employed or otherwise utilized by the agency under any contract or any other arrangement shall be maintained in the records of the child care agency. Failure to obtain or timely exhibit completion of this additional certification when requested shall result in ineligibility of the person from any further driving duties for the child care agency until such requirements are fulfilled.

2. Health Examinations and Drug Screenings.

(i) Health Examinations.

All persons driving vehicles at any time for the transportation of children enrolled in the child care agency shall annually provide to the Department a health statement or statements, based upon an examination of the individual, that are signed by the examining physician, licensed psychologist, licensed clinician, Nurse Practitioner, or Physician's Assistant, verifying that the individual is physically, mentally and emotionally capable in all respects of safely and appropriately providing transportation for children.

(ii) Drug Screenings.

- (I) Any person, in accordance with procedures established by the Department, shall pass a drug screen:

- I. Prior to such person being employed as a full or part-time employee with a licensed or approved child care agency for a position which has any duties involving driving any vehicle utilized by the child care agency to transport children enrolled in that child care agency; or
- II. Prior to such person being employed, in any position which has any duties involving driving any vehicle utilized to transport children enrolled in any child care agency, as a full-time or part-time employee by a contractor of a licensed or approved child care agency, or by any other persons or entities, any of which transports, for any compensation, children enrolled in the care of the child care agency as part of the agency's transportation program or service for such children offered by such child care agency; or
- III. Prior to the assumption, at anytime, of any driving duties by an existing full-time or part-time employee of the licensed or approved child care agency, or, of an existing full-time or part-time employee of a contractor or other person or entity providing transportation, for compensation, to the child care agency as part of such child care agency's transportation program or service.

- (II) Effective January 1, 2004, all existing drivers who have been previously assigned by the child care agency or its contractors or by any other person or entity as a driver of any vehicle providing child care transportation for a licensed or approved child care agency, under any arrangement and who have not been tested as required

(Rule 1240-04-04-.07, continued)

by item (I), shall have a drug screen in accordance with procedures established by the Department.

- (iii) The child care agency shall immediately review the results of the drug screen upon receipt, and upon receipt by the child care agency of a positive drug screen result for an employee of the child care agency, or upon receipt of notification of such result for a tested individual from a contractor or other person or entity providing transportation, for compensation, to the child care agency as part of such child care agency's transportation program or service, the child care agency shall immediately:
 - (I) Notify the Department and prohibit, or require its contractor or other entity providing transportation for compensation to the child care agency as part of the child care agency's transportation program to prohibit, the individual from any driving duties involving any transportation of children enrolled in the child care agency; and
 - (II) Enter into a safety plan approved by the Department that excludes the individual from driving for the child care agency until the individual passes a drug screen test and is otherwise approved, in writing, by the Department, to provide driving duties involving the transportation of children for the child care agency.
3. Prior to assuming their duties, all persons responsible, or who may in the course of their duties become responsible, at any time, for transporting children (including drivers and monitors) shall complete Department of Human Services-recognized pre-service transportation training in:
- (i) The proper daily safety inspection of the vehicle set forth in subparagraph (2)(b) below;
 - (ii) The proper use of child safety restraints required by these rules, Tennessee Code Annotated, Title 55, Chapter 9, Part 6, applicable Federal Motor Vehicle Safety Standards relative to child safety restraints, and; the restraint and vehicle manufacturer's design requirements for the type of child restraints and vehicles used to transport children;
 - (iii) The proper use of the verification procedures set forth in subparagraph (1)(b) above;
 - (iv) The proper use of a blood borne pathogen kit;
 - (v) The proper procedures for the evacuation of the vehicle based upon the type of vehicle and the ages of the children served; and
 - (vi) The developmentally appropriate practices applicable to the behavior management of children during transportation.
4. Following the completion of pre-service transportation training, all persons responsible at any time for the transportation of children (including drivers and monitors), shall complete Department of Human Services-recognized transportation training that includes the subject matter set forth in 1240-04-04-.07(1)(c)3, above, a minimum of every six (6) months.
5. Emergency Aid Training.

(Rule 1240-04-04-.07, continued)

- (i) All persons responsible, or who may in the course of their duties become responsible at any time, for the transportation of children shall hold current certification in Infant/Pediatric Cardiopulmonary Resuscitation (CPR) from the American Red Cross, the American Heart Association, or other certifying organization, as recognized by the Department.
 - (ii) Effective July 1, 2004, all persons responsible, or who may in the course of their duties become responsible at any time, for the transportation of children shall complete a first aid course sponsored or approved by the American Red Cross, or other first aid course, as recognized by the Department.
 6. The provisions of this subparagraph (c) apply to child care agency staff and to personnel operating vehicles for any contracted transportation service for a licensed or approved child care agency or for any other transportation service under the direction or control of a child care agency.
 7. The requirements of 1240-04-04-.07(1)(c) do not apply to individuals who provide transportation services exclusively for occasional field trips.
- (2) Vehicle Inspections; Passenger Limitations; Vehicle Design Requirements; Child Seating Space Requirements; Emergency Equipment; Prohibition of Firearms or other Weapons on Vehicles.
 - (a) The requirements of this paragraph (2) include vehicles used at anytime for the regular child care vehicle(s) and those used as back-up vehicles. Exception: The requirements of this paragraph (2) do not apply to vehicles operated solely for the purpose of providing transportation for occasional field trips.
 - (b) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain, documentation that designated child care, contractor, or other entity staff perform daily the following inspections, followed by any necessary repairs or other appropriate actions, before beginning transportation of children for the child care agency:
 1. A visual inspection of the vehicle's tires for wear and adequate pressure;
 2. A visual inspection for working headlights and taillights, signals, mirrors, wiper blades and dash gauges;
 3. An inspection for properly functioning child and driver restraints;
 4. An inspection for properly functioning doors and windows;
 5. An inspection for the presence of safety equipment required by these rules or any other provisions of law or regulations, and repair or replacement as necessary based upon visual evidence of the need do so;
 6. A determination that the vehicle has adequate fuel; and
 7. An inspection for, and cleaning of, debris from the vehicle's interior.
 - (c) The child care agency shall maintain, and shall require providers of transportation services for children under contract to the agency or under the agency's direction or control to maintain, documentation that the vehicles used to transport children receive

(Rule 1240-04-04-.07, continued)

regular inspections and maintenance by a certified mechanic in accordance with the maintenance schedule recommended by the vehicle manufacturer, and, in addition shall have the following vehicle equipment certified as inspected at least every four thousand (4,000) miles if not covered by, and/or serviced in accordance with the manufacturer's maintenance schedule:

1. Brakes;
 2. Steering;
 3. Oil levels, coolant, brake, windshield washer and transmission fluids;
 4. Hoses and belts.
- (d) Beginning January 1, 2004, the Department of Safety will conduct annual vehicle safety inspections on all vehicles used by the child care agency directly, under contract, or under the control or direction of the agency designed by the vehicle manufacturer to carry ten (10) or more passengers. Any necessary maintenance or repair to the vehicles disclosed by the inspections shall be the sole responsibility of the child care agency.
- (e) All documentation of the child care agency or providers of transportation services for children under contract to the agency or under the agency's direction or control shall be made available upon request to Department staff.
- (f) No vehicle which does not pass the inspections required in subparagraphs (b), (c) or (d) shall be used by the child care agency or by its contractors, or others subject to the agency's direction and control, to provide transportation services until necessary repairs, as determined by the Department, have been made.
- (g) Passenger Restraints, Capacity Limitations and Cargo Requirements.
1. All children and adults riding in a vehicle used to transport a child to and from a child care agency, to and from school, or to and from field trips must be restrained by separate passenger restraint devices in the vehicle's seating area, at a minimum, as required by state or federal law or regulation, or, as otherwise required by these rules.
 2. The total number of adults and children in vehicles used for the transportation of children enrolled in a licensed or approved child care agency shall never exceed the manufacturer's rated passenger capacity.
 3. In a vehicle being used for the transportation of children enrolled in a licensed or approved child care agency, all cargo, luggage or equipment of any type shall be adequately secured at all times in such manner as to protect the passengers in case of accident or emergency maneuvers.
 4. The provisions of this subparagraph (g) also apply to vehicles operated by any contracted transportation service for a licensed or approved child care agency, or for any other transportation service under the direction or control of a child care agency.
- (h) Requirements for Child Care Transportation Vehicles Effective January 1, 2007.
1. Effective January 1, 2007 all vehicles that the child care agency operates, for which it contracts, or which are otherwise under its direction or control, that are

(Rule 1240-04-04-.07, continued)

designed to carry ten (10) or more passengers must conform to all Federal Motor Vehicle Safety Standards (FMVSS) governing either "large" school buses or "small" school buses, as applicable, in accordance with the provisions of the FMVSS described in 49 Code of Federal Regulations Part 571, or as such Part may be amended.

2. Effective January 1, 2007, if buses in either the "large" or "small" classes of school buses under the FMVSS are used, they must have factory-installed passenger restraint anchorages and passenger restraints that are suitable for use in transporting children of any age who are to be transported on either a "large" or "small" school bus.
 3. The requirements of this subparagraph (h) do not apply to vehicles used exclusively for the provision of occasional field trips.
 - (i) A minimum of ten (10) inches seat space per child is required in a vehicle transporting children.
 - (j) A vehicle used to transport children shall have fire extinguishers, emergency reflective triangles, a first aid kit and a blood-borne pathogenic clean-up kit, and an adult familiar with the use of this equipment on board. Emergency exiting procedures shall be practiced on a regular basis by all staff responsible for transporting children.
 - (k) The carrying, possession or storage of firearms or other weapons is prohibited in vehicles used to transport children.
- (3) Vehicle Signage Requirements; Exceptions.
- (a) The requirements of this paragraph (3) are effective March 1, 2003, and are applicable to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles operated by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency, unless specifically exempted by the provisions of subparagraph (e) below.
 - (b) All vehicles used for the transportation of children enrolled in the child care agency must, as determined by the Department, clearly and readily identify to the driving public that the vehicle is used for the transportation of children who are in child care.
 1. On each side of the vehicle the following information shall be displayed:
 - (i) The full name of the child care agency and emergency contact number for the agency in any font or color, including the agency's current logo and lettering scheme; provided that the lettering is not less than one and one-half inches (1½") in height and is clearly readable at a distance of fifty feet (50') on a stationary vehicle in daylight conditions; and
 - (ii) The words "Child Care Transportation Complaints" followed by the Department of Human Services' toll-free Child Care Transportation Complaint phone number in black lettering in a block font, not less than one and one-half inches (1½") in height. This text shall appear on a clearly contrasting background that is clearly readable at a distance of fifty feet (50') on a stationary vehicle in daylight conditions.
 2. On the rear of the vehicle the following information shall be displayed:

(Rule 1240-04-04-.07, continued)

- (i) The full name of the child care agency and the words "Child Care Transportation Complaints" followed by the Department of Human Services toll-free Child Care Transportation Complaint phone number in black letters in a block font not less than one inch (1") in height on a clearly contrasting background that is clearly readable at a distance of forty feet (40') on a stationary vehicle in daylight conditions.
 - (ii) The provisions of this part (2) shall not apply to passenger automobiles (excluding minivans) used for transportation by the child care agency with a manufacturer's rated seating capacity of six (6) or fewer passengers.
- (c) The information required in subparagraph (b) must be applied to the vehicle in one of the following formats:
 - 1. Painted directly on the vehicle in accordance with the paint manufacturer's instructions using paint recommended by the paint manufacturer as appropriate for use on a vehicle; or
 - 2. A weather-resistant sign securely fastened to the vehicle. The term "securely fastened" includes magnetic signs and signs bolted to the vehicle. The term does not include adhesives such as tape or glue unless recommended by the adhesive manufacturer as being appropriate for outdoor use on a vehicle.
- (d) Special Requirements for Centralized Transportation.
 - 1. Central operators or any other entity that may own or operate more than one child care agency and which may provide centralized transportation services for its child care agencies; and/or
 - 2. Contractors, or other transportation service providers under the direction or control of the child care agency, which may provide centralized transportation services to more than one child care agency may substitute for the name and phone number of the child care agency required by parts 1240-04-04-.07(3)(b)1 and 2 above the full name and emergency contact number of the central operator, contractor or other transportation service providers under the direction or control of the child care agency. If the name on the vehicle does not clearly designate the agency or entity as one providing child care transportation, words such as "Child Care Transportation Vehicle" or "Child Care Transportation Services", or similar language approved by the Department, must be displayed on the vehicle in a manner that demonstrates, as determined by the Department, that the vehicle is providing child care transportation.
- (e) Exceptions to Vehicle Identification Requirements.
 - 1. Vehicles used exclusively for the provision of occasional field trips; and
 - 2. Vehicles used exclusively for the limited provision of emergency transportation, e.g., as a result of the mechanical breakdown of the regular child care vehicle.
 - 3. The Department may, in its discretion, determine if exceptions to the requirements of this paragraph (3) may be made for child care agencies owned, operated, or under the direction or control of a public agency. For purposes of this subparagraph (e), a "public agency" is any entity controlled, owned or operated by a state, county or local entity, or a political subdivision of the State of Tennessee.

(Rule 1240-04-04-.07, continued)

4. The Department may, in its discretion, determine if certain child care agencies may be exempted from any or all of the requirements of this paragraph (3) due to facts which may clearly warrant such exemptions.

(4) Child Safety Restraints.

- (a) The provisions of this paragraph (4) shall apply to any vehicle used to transport children as of the effective date of these rules, unless stated otherwise by the rule. Any vehicle whether:
 1. A passenger car;
 2. A stock or custom van or sport utility vehicle;
 3. A school bus classified as a "small" or "large" bus as required in FMVSS contained in 49 Code of Federal Regulations Part 571; or
 4. Any other vehicle must be properly equipped with the child passenger restraints required by subparagraphs (c)—(f) below and must comply with all other provisions of this paragraph (4).
- (b) Children under four (4) years of age shall never be placed in the front seat of the vehicle.
- (c) Children who weigh less than twenty pounds (20 lbs.) shall be placed to face the rear of the vehicle. Children who weigh twenty pounds (20 lbs.) or more shall be placed to face the front of the vehicle unless the special needs of a disabled child otherwise require the child to face the rear of the vehicle.
- (d) Children who weigh less than forty pounds (40 lbs.) shall be restrained in a Federally-approved child restraint device in accordance with the child restraint device manufacturer's instructions. The child restraint device shall be secured to the vehicle in accordance with the child restraint device manufacturer's instructions.
- (e) Children Between Forty Pounds (40 lbs.) and Eighty Pounds (80lbs.).
 1. Children who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) may be restrained in a belt-positioning booster seat (BPBS) that has been secured in accordance with the vehicle and restraint manufacturers' instructions. BPBS devices shall always be secured to the vehicle in accordance with the vehicle and the restraint device manufacturer's instructions. If, however, a BPBS restraint device is not used, the child shall be restrained in both a lap belt and a shoulder belt if available in the vehicle. If a lap and shoulder belt restraint system is not available in the vehicle, the child shall be restrained by a lap belt.
 2. Effective January 1, 2007, children who weigh between forty pounds (40 lbs.) and eighty pounds (80 lbs.) shall be restrained in a belt-positioning booster seat (BPBS) in accordance with the BPBS manufacturer's instructions. BPBS devices shall always be secured to the vehicle in accordance with the vehicle and the restraint device manufacturer's instructions.
- (f) Children Weighing More Than Eighty (80 lbs.) or Who are Taller Than Four Feet Nine Inches (4'9").
 1. Children who weigh more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4'9") may be restrained in an adult lap belt and shoulder belt

(Rule 1240-04-04-.07, continued)

- that has been secured in accordance with the vehicle manufacturer's instructions. If, however, an adult lap belt and shoulder belt is not used, the child shall be restrained by a lap belt.
2. Effective January 1, 2007, children who weigh more than eighty pounds (80 lbs.) or who are taller than four feet nine inches (4'9") shall be restrained in an adult lap belt and shoulder belt in accordance with the vehicle manufacturer's instructions.
- (g) Passenger air bags shall remain turned off unless an adult or a child fifteen (15) years of age or older is riding in the front passenger seat of the vehicle.
 - (h) No child shall ride on the floor of a vehicle and no child shall be placed with another child in the same restraint device.
 - (i) Notwithstanding the provisions of this paragraph (4), until January 1, 2007, children of school-age (in kindergarten or any grade level above) shall not be required to use child restraints when being transported in school buses classified in the "large" category under FMVSS.
- (5) Supervision of Children During Transportation.
- (a) An adult must be in the vehicle whenever a child is in the vehicle.
 - (b) Adult Monitor Requirements for Child Care Transportation.
 1. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more children ages six (6) weeks through five (5) years of age, who are not in kindergarten, if the entire vehicle route exceeds forty-five (45) minutes.
 2. An adult monitor, in addition to the driver, is required on the vehicle for the transportation of four (4) or more non-ambulatory children (permanent or temporary) of any age.
 3. On field trips off premises, the number of adults at the destination shall be double the requirements on the adult:child ratio charts in paragraph (2) of subchapter 1240-04-04-.03, Caregiver to Child Ratios and Supervision; provided, however, the adult monitor referenced in parts 1 and 2 of this subparagraph (b) may be used for purposes of this requirement.
- (6) Limits on Time Children Are Transported/Transportation Waivers.
- (a) Children shall not spend more than forty-five (45) minutes traveling one way; provided, however, this provision is not applicable for occasional field trips.
 - (b) If extended transportation beyond the limits in subparagraph (a) is necessary in special circumstances, or as may be required by geographic factors, an individualized plan shall be established and signed by the parent(s) and the child care agency and approved by the Department prior to providing such transportation.
- (7) Except as otherwise exempted, the provisions of paragraphs (4)-(6) shall apply to all vehicles used for the transportation of children enrolled in a child care agency licensed or approved by the Department, including vehicles provided by a contractor of the agency or vehicles operated by any other provider of services under the direction or control of the child care agency.

(Rule 1240-04-04-.07, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-209, 55-50-102(11) and (20), 71-1-105(5), 71-3-501 et seq., 71-3-502(a)(2), 71-3-508(c), Acts of 2003, Public Chapter 412, §§ 1(c), 2, and 3, and 49 Code of Federal Regulations Part 571. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed November 21, 2002; effective February 4, 2003. Amendment by Acts of 2003, Public Chapter 412, §§ 1(c) and 3 filed June 25, 2003; effective July 1, 2003. Amendment filed September 29, 2003; effective December 13, 2003. Amendment filed October 18, 2004; effective January 1, 2005.

1240-04-04-.08 FOOD.

- (1) Nutritional Needs.
 - (a) For children in the home at least four hours, one snack (defined as two of these four choices: fluid milk; meat or meat alternate; fruit, vegetable or full-strength juice; or whole grain or enriched bread) shall be provided, unless the four-hour period covers a normal meal hour, in which case a meal shall be provided.
 - (b) Snacks provided shall be nourishing and planned as a part of the day's food allowances. Carbonated drinks, fruit-flavored drinks, imitation milk drinks, and candy shall not be served as snack foods. Powdered milks shall be used only in a cooked food product. (Real juice will be labeled "100% juice" or "full-strength juice". Powdered milk does not meet the requirement.) (See Appendix D for suggested food pattern for snacks.)
 - (c) For children in the home five to 10 hours, one meal (defined as meat or meat alternate, vegetable and/or fruit, bread or bread product, and milk) and one or two snacks shall be provided, two snacks if the period is as much as seven hours. (See Appendix D for suggested meal patterns.)
 - (d) For those in the home longer than 10 hours, two meals and two snacks shall be furnished.
 - (e) Breakfast (defined as fruit, vegetable or full-strength juice; cereal or bread product; and milk) shall be offered to children who arrive before 7:00 a.m. and who have not had breakfast at home.
 - (f) Diets of infants and other special diets shall be prepared as prescribed by a physician.
 - (g) The week's menus shall be planned and posted by the First day of each week and remain posted until the following week, so that parents can be aware of the food their children are receiving. These menus shall be followed, although reasonable substitutions are permissible if the substituted food contains the same nutrients. The change shall be documented in advance of the meal. (information on menu planning is available upon request.)
- (2) Meal Service.
 - (a) Caregivers and children shall wash their hands before eating or prior to any preparation of food.
 - (b) High chairs and tables on which food is served shall be washed with soap and water prior to and after snacks and meals.

(Rule 1240-04-04-.08, continued)

- (c) Napkins and forks and/or spoons shall be provided for children who feed themselves.
- (d) All formulas and food brought from home shall be labeled with the child's name. Milk shall be placed immediately in the refrigerator. Previously opened baby food jars shall not be accepted by caregivers. All formulas remaining in bottles after feeding shall be discarded.
- (e) When children are capable of using a high chair, they shall be allowed to do so and to experiment with food, with feeding themselves, and to eat with fingers or spoon.
- (f) Bottles shall not be propped or given to children who are lying flat.
- (g) Solid foods shall not be given in a bottle, or with infant feeders, to children of normal eating abilities.
- (h) All infant's feeding schedule shall be made and adapted to child's need rather than on the hour.
- (i) Weaning shall not be started immediately after enrollment, but after parents and caregivers have communicated to establish consistency in the weaning process and after a child has become familiar with a cup or glass.
- (j) Introduction of new foods to infants and toddlers shall be gradual, one at a time, over a five to seven-day period with parents' approval.
- (k) The size of servings shall be adequate to meet children's needs. (Portion size depends on child's age. See Appendix D for chart of age/portion size.)
- (l) Food, including dessert, shall not be forced on or withheld from a child.
- (m) Floors under tables and high chairs on which food has been served shall be swept and/or vacuumed after each meal and mopped as needed.

Authority: T.C.A. §§ 71-1-105(12) and 71-3-501 et seq. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed November 21, 2002; effective February 4, 2003 (Formerly 1240-04-04-.07).

1240-04-04-.09 PHYSICAL FACILITIES.

- (1) Family day care homes shall be inspected and approved annually for Fire Safety and Environmental Health by the Licensing Counselor. Requirements in Appendices E and F shall be met before a license can be issued.
- (2) Physical facilities shall continue to meet all standards in Appendices E and F and any updated fire prevention and environmental standards which are applicable.
- (3) The home shall have at least two exits directly to the outside.
- (4) The home shall not be located in a building used for other purposes, which would be hazardous or would limit outdoor play.
- (5) If the number of children (including "related") exceeds seven at one time, the living area of the home shall provide 30 square feet per child of usable play space.

(Rule 1240-04-04-.09, continued)

- (6) The areas where children play or are cared for shall be properly maintained. These areas shall be free of hazardous items or materials unless adequately protected by storage, inaccessibility, proper supervision, or other safety procedures. These areas shall present no conditions which are hazardous to children. All such areas shall be free of all animal wastes.
- (7) When infants are in care, the diapering area shall be located as close to a handwashing lavatory as possible but not in the kitchen.

Authority: T.C.A. §§ 71-1-105(12) and 71-3-501 et seq. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed November 21, 2002; effective February 4, 2003 (Formerly 1240-04-04-.08).

1240-04-04-.10 CARE OF CHILDREN WITH DISABILITIES.

- (1) When children with disabilities are enrolled the home shall provide those children equal opportunity to participate in the same program activities as their peers.
- (2) Adaptations to the environment shall be directed toward normalizing the lifestyle of the child with a disability by helping him/her become independent and develop self-help skills.
- (3) Any efforts to provide specialized services (e.g., speech/hearing therapy, physical therapy, psychological evaluation, or services for mentally retarded), either directly or by referral, shall be conducted only with written permission by parent and documented in the child's record. Any informational exchange regarding these services shall also be documented.
- (4) The home shall have a written individualized evacuation plan, which has been approved by the Licensing Counselor and is practiced in every monthly fire drill, for every child enrolled who requires more assistance to evacuate the facility than other children of the same age or in the same group.

Authority: T.C.A. §§ 71-1-105(12), and 71-3-501 et seq. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed October 28, 1976; effective January 14, 1977. Repeal filed March 17, 1980; effective June 29, 1980. New rule filed December 6, 1983; effective January 5, 1984. Amendment filed October 9, 1987; effective January 27, 1988. Repeal and new rule filed April 22, 1992; effective June 6, 1992. Amendment filed November 21, 2002; effective February 4, 2003 (Formerly 1240-04-04-.09).

1240-04-04-.11 APPENDICES.

- (1) The following Appendices referenced in the foregoing rules are incorporated in these rules by reference:
 - (a) Appendix A - I. Summary of Applicable Laws
II. Questions and Answers About Day Care Licensing
 - (b) Appendix B - Guidelines for TB Screening
 - (c) Appendix C - Contents of First Aid Kit
 - (d) Appendix D - Meal/Snack Patterns and Portion Sizes
 - (e) Appendix E - Environmental Standards for Family Child Care Homes

(Rule 1240-04-04-.11, continued)

- (f) Appendix F - Fire Safety Inspection Report
- (2) Any conflict between summaries of the language of statutes or regulations in the Appendices and official statutes and regulations will be resolved by reference to the language of the official statutes or regulations.

Authority: T.C.A. §§ 4-5-202, 55-50-102(11) and (20), 71-1-105(5), 71-3-502(a)(2), and 49 Code of Federal Regulations Part 571. **Administrative History:** Original rule filed November 21, 2002; effective February 4, 2003.

APPENDIX A

I. Summary Of Applicable Laws.

A. *Child Welfare Agencies (T.C.A. § 71-3-501 et seq.) (A complete copy of the licensing law is available upon request.)*

1. Specifies the types of agencies that DHS has a mandate to license. Licensing of day care (less than 24-hour care) begins with five children. (Care for one to four children is exempt.)
2. Provides for development of standards, based on certain criteria by a 16 member "Standards Committee" appointed by the Commissioner. Standards are to be reviewed (and revised, if needed) every five years.
3. Requires DHS to provide applicants or licensees with assistance in meeting standards.
4. Requires annual application for a license and an application processing fee.
5. Upon receiving fire safety and environmental sanitation approval, provides that DHS will issue a 90-day conditional license if no apparent hazards to the children in care are present.
6. Provides for denial, suspension, or revocation of license and a waiting period ranging from 60 days to one year prior to reapplication.
7. Provides for appeals and hearings before the Board of Review, which includes representatives from the Departments of Health, Education, of the "Advisory Board" of DHS, from the appropriate Standards Committee, and three at-large members selected by the others. Appeals from the Board's decision may be made to Chancery Court.
8. Imposes a misdemeanor penalty of imprisonment for six months and a fine of \$500 or both for each offense (day) of operating without a license.
9. Requires public agencies to meet the same standards as other child welfare agencies and a method of reporting to the public any uncorrected deficiencies.
10. Requires DHS to regularly inspect agencies without prior notice and grants the Department access to facilities and records in order to make an evaluation of the "kind and quality of work done" and to make recommendations regarding licensure.
11. Requires DHS to investigate reports of noncompliance.
12. Allows DHS to impose civil penalty (\$25 - \$150) for substantial noncompliance and probation for continued noncompliance.

(Rule 1240-04-04-.11, Appendix A, continued)

13. Contains specified and defined exemptions for Parents' Day Out programs, Kindergartens, and "Drop-in" programs. Also provides a waiver of adult to child ratios and group size requirements for certain Montessori schools.
14. Requires screening for criminal violations of persons applying to work with children through the registry maintained by the Tennessee Bureau of Investigation (TBI).
15. Allows DHS to investigate all reports of abuse, neglect, or sexual abuse (even in exempt agencies) and enables DHS to revoke the license of a licensed agency and to enjoin an unlicensed person or agency from continuing to provide child care where abuse of children occurs.

B. *Access to Public Records (T.C.A. § 10-7-503 and 10-7-504).*

Requires public bodies to provide any citizen of Tennessee access to public records except for specified confidential records (e.g., medical records, TBI investigative records, students' records). DHS' records on child welfare agencies are public records except as they may contain information obtained in the course of child abuse or neglect investigations.

C. *Child Protective Services (T.C.A. §§ 37-1-401 et seq. and 37-1-601 et seq.).*

1. Requires any individual or organization (such as Day care agency, Hospital, or School) having knowledge of suspected child abuse or neglect to report it to a juvenile judge, the Department of Human Services, or a Law Enforcement Official. (Look in your telephone book under "Child Abuse" or call the county DHS office or local law enforcement.)
2. Requires the identity of a reporting person to be kept confidential, subject to disclosure only by consent of the person or by judicial process. Provides immunity from civil or criminal liability if reports are made in good faith.
3. Gives DHS authority and responsibility to investigate reports of abuse or neglect.
4. Requires that all written records and information regarding investigations be confidential. Release of information is permissible to certain specified persons and to those having responsibility for administration of the law. Persons found not guilty of severe child abuse or child sexual abuse shall have their names expunged from the TBI's abuse registry.
5. Charges DHS with the responsibility of conducting a continuing publicity and education program to encourage reporting and to strengthen and improve child sexual abuse detection, prevention, and treatment efforts.

D. *Federal Funding.*

Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964 require agencies receiving federal funding to employ nondiscriminatory policies and practices. Persons receiving federal funding such as reimbursement from the USDA Child/Adult Care Food Program, DHS vendor or Transitional Child Care payments, Social Services Block Grants (SSBG), Dependent Care Grant funds for school-age child care, etc.; and persons receiving federal support in the form of space, staff, services, equipment, etc., are required to comply with the following:

1. Title VI of the Civil Rights Act of 1964 by ensuring that no person (child, parent, or employee) in your agency "shall, on the ground of race, color, or national origin, be

(Rule 1240-04-04-.11, Appendix A, continued)

excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance"; and by employing nondiscriminatory policies and practices and advertising such.

2. Section 504 of the Rehabilitation Act of 1973 by ensuring that no otherwise qualified handicapped person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program activity solely on the basis of a handicap (applies to children, parents, and employees); and by making reasonable accommodations to serve or hire an otherwise qualified individual with a handicapping condition.
- E. *Child Passenger Protection and Safety Belt Use (Transportation) (T.C.A. § 55-9-601 et seq.).*
1. Requires any person transporting a child under the age of four years in a motor vehicle to provide for children's protection by providing and properly using a federally approved child restraint system (manufactured after January 1, 1981). Violation is subject to a \$50 fine or 30 days in jail or both.
 2. Specifies that no one is to operate a motor vehicle unless all persons four and older in the front seat are properly restrained by a safety belt.
 3. Imposes a fine of \$50 or 30 days in jail or both for each violation after the first; however, the violator can be cited or arrested only after being cited or arrested for another violation of law.
 4. *T.C.A. §§ 55-50-102(11) and 55-50-102(12)(B)* requires the driver of a vehicle designed to carry 15 or more passengers (including the driver) to have a commercial driver's license.
- F. *Administrative Rules and Procedures (T.C.A. § 4-5-301 et seq. and Chapter 1240-05-11 et seq.).*
1. Provides for an administrative hearing of any contested cases (i.e., on denial or revocation of licenses or on notice of intent to put an agency on probation) after proper notice which includes references to particular statutes and rules involved.
 2. Requires that hearings before the members of the Board of Review to be conducted by the administrative judge or a hearing officer, who rules on admissibility of evidence and other matters and otherwise ensures that proceedings are properly carried out.
 3. Allows the contesting licensee to be represented (at licensee's own expense) by counsel.
 4. Allows the judge or hearing officer at his/her discretion or upon request of licensee or the Department of Human Services to schedule a prehearing conference in order to simplify or expedite the disposition of the appeal action.
 5. Requires that the hearing be open to the public.
 6. Requires the final order be entered by the Board of Review. The final order shall include conclusions of law, factual findings, prescribed remedy, and procedures and time limits for seeking judicial review.
 7. Provides that while an application for a license is pending, an existing license does not expire until disposition of the application has been finally determined, unless the license must be summarily suspended pending completion of the proceedings because

(Rule 1240-04-04-.11, Appendix A, continued)

the Department determines that “public health, safety, or welfare imperatively requires” emergency action, and notifies licensee of that finding “pending proceedings for revocation or other action”.

II. Questions And Answers About Day Care Licensing.

A. *How does a person get information about opening a child care agency?*

The local county office of the Tennessee Department of Human Services will furnish information; a licensing representative will provide assistance free of charge to an individual or a group that is planning to provide child care.

B. *How many children am I allowed to care for?*

In Tennessee, a person without a license may care for no more than four children. To care for five to seven children, in addition to “related” children, you must be licensed as a “family child care home” operator. To have eight - 12 children in care, you must be licensed as a “group child care home” operator. (Under certain conditions, a group day care home may have up to 15 children.)

C. *How is a license obtained?*

1. After a completed application and the required fee are received, arrangements will be made for a representative to visit your facility and evaluate the day care operation and/or facility in accordance with the required standards in this booklet.
2. Before a day care home can be licensed, it must pass fire safety and environmental sanitation inspections. The licensing representative will explain the procedure for getting inspected.

D. *What types of licenses are issued?*

1. An “annual license” is granted when compliance with licensure requirements is confirmed by the Department.
2. A “conditional license” is granted to a new agency for 90 days when it does not meet all the required standards, but there is evidence that an effort is being made to comply with the requirements and it has first met fire safety and environmental sanitation approval.

E. *Who determines whether a license is issued?*

The Commissioner has ultimate responsibility for issuance or denial, based upon an evaluation and recommendation by a licensing representative of the Department.

F. *Is the license permanent?*

No, it is issued for up to one year. Prior to its expiration, an evaluation is made to determine whether compliance with requirements is being maintained and reissuance should be recommended.

G. *Is there a fee?*

Yes, the fee is payable upon application and is nonrefundable. The fee for day care homes is \$5 for a family day care home and \$10 for a group day care home.

(Rule 1240-04-04-.11, Appendix A, continued)

H. *Where is the license kept?*

It must be posted in a conspicuous place in the day care home during business hours.

I. *Are licenses transferable?*

No. The license applies only to the agency, organization, and person(s) to whom it is issued. It also applies only to the building approved.

J. *Does the same license for "day care" cover (1) nighttime care, (2) "drop-in" children, and (3) sick children?*

1. Yes. An agency that provides less than 24-hour care to children during nighttime hours receives the same license as a child care agency operating during daytime hours, and one license covers both programs in the same agency. An agency cannot provide continuous 24-hour care for two or more children without a residential license. If not licensed for day care, a residential license is needed for more than one child. Ask a licensing counselor about the procedure for obtaining a residential license.

2. "Drop-in" children are counted in the ratio and group and can be cared for only if required records are on file before they are cared for.

3. The day care home license also includes care of mildly ill children. Only mildly ill children (i.e., not "contagious") should be cared for in a day care home and only then if staffing is adequate. Mild illnesses are generally those in a recuperative stage (e.g., getting over Mumps or Influenza).

K. *Who enforces licensure requirements for a child care system?*

If homes are approved as an extension of a child welfare agency's license, the central operator (the licensee) is responsible for monitoring compliance. The Department of Human Services monitors the agency's compliance as well as licensed homes within a system.

L. *What is the procedure when a license is revoked, denied, or suspended?*

The Department may deny, suspend, or revoke a license at any time by giving the owner, operator, or board a written notice by listing the specific reason or reasons for the action. Specified time periods are provided in the law. Any conduct or condition which might immediately jeopardize the safety of children, shall be cause for immediate suspension of the license, pending the outcome of revocation procedures.

M. *How can an operator or applicant appeal such action?*

The licensing law provides for a board of review. If a license is denied or revoked by the Department, a request may be made for a hearing before the review board. An appeal of the decision from the review board may be judicially reviewed. The periods of time allowed for the appeals are set out in the law.

N. *Where do I call to file a complaint or get a license?*

1. If you have a question about these standards, or if you want to report an unlicensed facility or a facility that is violating licensing requirements, call the DHS county office. It is listed in the telephone directory under Tennessee State Government - Human Services Department. Someone there will refer you to the licensing unit in your area.

(Rule 1240-04-04-.11, Appendix A, continued)

If you want to open a child care facility, call that office before you do anything. You cannot care for a group of five or more children without a license.

2. If you have a question or concern about these standards or the licensing procedure, call or write:

Day Care Licensing Coordinator
Tennessee Department of Human Services
Citizens Plaza Building
400 Deaderick Street
Nashville, TN 37248-9800
Phone: (615) 313-4778

APPENDIX B

RECOMMENDATIONS FOR TUBERCULOSIS SCREENING OF PROGRAMS UNDER THE SUPERVISION OF THE DEPARTMENT OF HUMAN SERVICES¹

Programs that provide care for periods less than 24 hours per day.

A. Employees.

Employees should be screened for tuberculosis within 90 days prior to but no later than two weeks after employment. The screening examination should include a Tuberculin test² and if it is positive, a chest X-ray and, if necessary, other specific tests. Prospective or current employees who are known to have a positive tuberculin reaction or who refuse to have a Tuberculin skin test shall receive a chest X-ray to rule out infectious Tuberculosis. If infectious Tuberculosis is ruled out, no further screening is necessary during their employment unless persistent pulmonary symptoms develop or there is contact with Tuberculosis.

B. Children.

1. *Foreign-born.*

All foreign-born children should present evidence of a Tuberculin skin test³ performed in the United States. This test performed in the United States may have been done at any time after 12 months of age. Any child with a positive Tuberculin skin test should be referred to a physician for evaluation. After the initial evaluation, future periodic screening is not required unless the child develops persistent pulmonary symptoms or there is contact with Tuberculosis.

2. *Native-born.*

Special screening of children born in the United States is not required unless there is history of contact to Tuberculosis or there are symptoms and/or physical findings suggestive of Tuberculosis.

If the Tuberculin test is negative, no future screening is required unless persistent pulmonary symptoms develop or there is contact with Tuberculosis. If the Tuberculin skin test is positive, the child should be referred to a physician for evaluation.

(Rule 1240-04-04-.11, Appendix B, continued)

¹ Tuberculosis screening is not recommended for programs providing care for less than two weeks.

² The preferred method is the Mantoux technique using 5 TU PPD.

³ Ibid.

APPENDIX C**INVENTORY FOR THE FIRST AID KIT**

Every child care setting should have a first aid kit stocked with items on the list below. You can buy the supplies for the first aid kit at drug stores or at hospital or medical supply stores.

Each first aid kit should be large enough to hold all the necessary supplies for first aid in the child care setting. Use a container that will close tightly. It should be stored where adults can reach it easily, but it must be stored out of reach of children. You should arrange the contents so you can reach items easily without emptying the kit. You should be sure that the contents are wrapped tightly and are sanitary. You should restock the kit after each use.

A first aid kit should contain the following items:

- | | |
|---|--|
| Π First aid cards* | Π Commercial cold pack or plastic bag for ice cubes |
| Π Adhesive strip bandages (1/2", 3/4", 1" strips) | Π Clean cloth |
| Π Gauze bandages (4"x4", nonstick, sterile) | Π Soap |
| Π Rolled flexible or stretch gauze | Π Small plastic cup |
| Π Bandage tape | Π Sealed packages of cleansing wipes |
| Π Nonstick, sterile pads (different sizes) | Π Syrup of ipecac (1-ounce bottle) |
| Π Triangular bandages | Π Special items for children with specific health problems (such as bee sting kit or an inhaler for a child with asthma) |
| Π Small splints | Π Emergency Telephone Guide |
| Π Eye dressing or pad | Π Emergency contact information (phone numbers of the children's parents) |
| Π Scissors | Π Change for pay phone |
| Π Tweezers | Π Pen or pencil and note pad |
| Π Safety pins | |
| Π Thermometer | |
| Π Flashlight with fresh batteries | |
| Π Disposable latex gloves | |
| Π Three-ounce rubber bulb syringe (to rinse out eyes, wounds, etc.) | |

* Can be purchased from American Red Cross; give first aid instructions.

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"Appendix C"
American Red Cross Child Care Course
Infant and Child First Aid

APPENDIX D

MEAL PATTERN/PORTION SIZE REQUIREMENTS

If needed, the caregiver should ask for help in planning meals from a nutritionist or dietitian. For homes on the Child and Adult Care Food Program (CACFP), the DHS staff nutritionist is available. The Department of Health, local colleges, and hospitals are also possible resources.

The minimum amounts of food components to be served are as follows:

BREAKFAST

Food Components	Age 1 and 2	Age 3-5	Age 6-12 ¹
<i>Milk</i> milk, fluid	1/2 cup ²	3/4 cup	1 cup
<i>Vegetables and Fruits</i> Vegetable(s) and/or fruit(s) or full-strength vegetable or fruit juice or an equivalent quantity or any combination of vegetable(s), fruit(s) and juice	1/4 cup 1/4 cup	1/2 cup 1/2 cup	1/2 cup 1/2 cup
<i>Bread and Bread Alternates</i> ³ bread or cornbread, biscuits, rolls, muffins, etc. or cold dry cereal ⁴ or cooked cereal or cooked pasta or noodle products or an equivalent quantity of any combination of bread/bread alternate	1/2 slice 1/2 serving 1/4 cup or 1/3 oz. 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/3 cup or 1/2 oz. 1/4 cup 1/4 cup	1 slice 1 serving 3/4 cup or 1 oz. 1/2 cup 1/2 cup

¹ Children age 12 and up may be served adult-sized portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities for children age 6 to 12.

² A cup means a standard 8 ounce measuring cup.

³ Bread, pasta or noodle products, and cereal grains shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.

⁴ Either volume (cup) or weight (oz.), whichever is less.

(Rule 1240-04-04-.11, Appendix D, continued)

LUNCH OR SUPPER

Food Components	Age 1 and 2	Age 3-5	Age 6-12
<i>Milk</i> milk, fluid	1/2 cup	3/4 cup	1 cup
<i>Vegetables and Fruits</i> Vegetable(s) and/or fruit(s) ¹	1/4 cup total	1/2 cup total	3/4 cup total
<i>Bread and Bread Alternates</i> bread or cornbread, biscuits, rolls, muffins, etc. or cooked pasta or noodle products or cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate	1/2 slice 1/2 serving 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/4 cup 1/4 cup	1 slice 1 serving 1/2 cup 1/2 cup
<i>Meat and Meat Alternates</i> lean meat or poultry or fish ² or cheese or eggs or cooked dry beans or peas or peanut butter, or other nut or seed butters or peanuts or soy nuts ³ or an equivalent quantity of any combination of meat/meat alternate	1 oz. 1 oz. 1 egg 1/4 cup 2 Tbsp. ½ oz. = 50%	1-1/2 oz. 1-1/2 oz. 1 egg 3/8 cup 3 Tbsp. 3/4 oz. = 50%	2 oz. 2 oz. 1 egg 1/2 cup 4 Tbsp. 1 oz = 50%

(See footnotes from breakfast pattern.)

¹ Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full strength vegetable or fruit juice may be counted to meet not more than 1/2 of this requirement.

² Edible portion as served.

³ No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purposes of determining combinations, (1) ounce of nuts or seeds is equal to (1) ounce of cooked lean meat, poultry, or fish.

(Rule 1240-04-04-.11, Appendix D, continued)

SUPPLEMENTAL FOOD (SNACKS)

Select two of the following four components. Juice may not be served when milk is served as the only other component. Milk and yogurt are too similar in nutritional value to be used together in the same supplement.

Food Components	Age 1 and 2	Age 3-5	Age 6-12 ¹
<i>Milk</i> milk, fluid	1/2 cup	1/2 cup	1 cup
<i>Vegetables and Fruits</i> Vegetable(s) and/or fruit(s) or full strength vegetable or fruit juice or an equivalent quantity or any combination of vegetable(s), fruit(s) and juice	1/2 cup 1/2 cup	1/2 cup 1/2 cup	3/4 cup 3/4 cup
<i>Bread and Bread Alternates</i> bread or cornbread, biscuits, rolls, muffins, etc. or cold dry cereal or cooked cereal or cooked pasta or noodle products or an equivalent quantity of any combination of bread/bread alternate	1/2 slice 1/2 serving 1/4 cup or 1/3 oz. 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/3 cup or 1/2 oz. 1/4 cup 1/4 cup	1 slice 1 serving 3/4 cup or 1 oz. 1/2 cup 1/2 cup
<i>Meat and Meat Alternates</i> lean meat or poultry or fish or cheese or eggs or cooked dry beans or peas or peanut butter, or other nut or seed butters or peanuts or soy nuts or yogurt, plain, or sweetened and flavored ¹ or an equivalent quantity of any combination of meat/meat alternate	1/2 oz. 1/2 oz. 1/2 egg 1/8 cup 1 Tbsp. 1/2 oz. 2 oz. or 1/4 cup	1/2 oz. 1/2 oz. 1/2 egg 1/8 cup 1 Tbsp. 1/2 oz. 2 oz. or 1/4 cup	1 oz. 1 oz. 1/2 egg 1/4 cup 1 Tbsp. 1 oz. 4 oz. or 1/2 cup

(See footnotes from breakfast and lunch patterns.)

¹ Yogurt means commercially coagulated milk products obtained by fermentation that meet milk fat or milk solid requirements to which flavoring foods or ingredients may be added. These products are covered by the FDA's standard of identity for yogurt, lowfat yogurt, and nonfat yogurt.

APPENDIX E**ENVIRONMENTAL STANDARDS FOR FAMILY CHILD CARE HOMES****I. *Building.***

The building foundation, roof, and walls shall be free of visible cracks and unsealed openings. Gutters and downspouts shall be kept in good repair. Visible cracks in walls and around window frames and doors shall be sealed. Buildings shall be painted inside and outside when necessary.

All doors and windows shall be kept clean and in good repair (this includes screens when used). Window space shall be equal to at least 10 percent of the floor area except in rooms which are air-conditioned and which have artificial light amounting to at least 25 foot candles. Windows shall be openable unless the room is air-conditioned. All outside doors and windows shall be screened unless building is air-conditioned.

II. *Lighting.*

Lighting shall be adequate for normal activities that would be expected to be conducted in a Family Child Care Home. Fixtures and window blinds shall be clean, operative and properly adjusted.

III. *Heating and Ventilation.*

A temperature at child height not lower than 68° nor higher than 75° shall be maintained. Stoves, fireplaces, hot radiators, steam and hot water pipes or other objects and electrical outlets in rooms used by the children shall be adequately protected by screens, guards, insulation, or suitable measures that will protect children from coming in contact with them. All heating, ventilation, and air conditioner units shall be kept clean.

IV. *Toilets.*

There shall be at least one flush toilet and one handwashing lavatory. Such facilities shall be approved and in good repair, clean and conveniently located. Toilet tissue shall be provided at each commode.

A tightly covered container with plastic liner shall be used for diaper disposal and stored inaccessible to children. This container shall be emptied by closing the liner and disposing of it into an outside garbage receptacle.

V. *Handwashing.*

Soap and individual sanitary towels shall be available wherever a handwashing lavatory is provided. Proper adult supervision shall be exercised for use of toilet and handwashing facilities.

There shall be sufficient hot water to supply the needs of a Family Child Care Home.

Personnel shall exercise good handwashing practices following diaper changes, the assistance of children in toilet use, and personal toileting.

VI. *Bedding.*

Where provisions are made for staying overnight, each occupant shall be provided an individual bed with acceptable mattress and waterproof cover, springs, clean linen, and clean cover. Where children are kept at least six hours but not overnight, individual cots or other approved bedding

(Rule 1240-04-04-.11, Appendix E, continued)

shall be provided and kept clean and in good repair. Spacing shall be adequate to promote freedom of movement, approximately two feet between cots and mats.

VII. *Sewage Disposal.*

Connection to a public sewage disposal system shall be made where possible. The use of a private sewage disposal system shall have the approval of the local health department and it shall be operating satisfactorily.

Plumbing shall be installed and maintained in such a manner as to prevent the possibility of cross-connection or back siphonage. There shall be no sewage leaks.

VIII. *Water Supply.*

The water supply shall be adequate, of a safe, sanitary quality, and from an approved public or private water-supply system which is constructed, protected, operated, and maintained in conformance with applicable State and local laws, ordinances, and regulations. Water from a public supply shall be utilized where possible.

IX. *Drinking Facilities.*

An approved drinking fountain or individual paper cups shall be provided in rooms or adjacent to rooms regularly occupied by the children. Fountains shall be clean and in good repair.

X. *Garbage and Refuse.*

All garbage and rubbish shall be kept in leakproof, nonabsorbent containers which shall be kept covered with tight fitting lids. Refuse shall be picked up at least twice a week and disposed of in such a manner as to prevent a nuisance. All garbage containers and the immediate area shall be kept clean. Containers shall be kept in good repair. Garbage shall be removed from the building daily.

XI. *Insect and Rodent Control.*

All parts of the building shall be reasonably free from flies and other insects. Approved screens in good repair shall be provided for all doors and windows unless the building is air-conditioned and then such doors and windows shall be kept closed during fly seasons. The facility shall be free of rodents. Proper supervision and caution shall be exercised according to label instructions when applying approved insecticides and rodenticides.

XII. *Safety.*

Only such poisonous and toxic materials as are required to maintain sanitary conditions and for sanitation purposes shall be used and stored in an approved manner. All insecticides, medicines, polishes, disinfectants, and cleaning compounds shall be stored in an area separate from food and paper storage and shall be inaccessible to children.

Sturdy safety rails shall be provided for both sides of all steps or ramps. When bathtubs are used by children, safety strips or mats shall be provided. There shall be no broken mirrors, windows or other glass objects in any part of the building. All furniture and the building shall be of durable construction, free of sharp projecting corners or surfaces and kept clean and in good repair. Glass in hazardous locations shall be suitably shielded or safety glass used in these sections.

Grounds shall be free of excessive growth of grass or weeds and hazards that are likely to cause falls. There shall be no unprotected, abandoned well, cistern, refrigerator box, or similar hazards.

(Rule 1240-04-04-.11, Appendix E, continued)

Fencing or other acceptable barriers shall be provided for hazardous drainage ditches, cliffs, traffic, or like hazards. The grounds shall have adequate drainage.

Swimming pools shall comply with state law and regulations for public pools. There shall be adequate supervision by an adult who can swim. Pools shall be enclosed by a fence four feet in height.

XIII. *Food.*

Facilities located in counties or municipalities which have an adopted food service code, ordinance, or regulation shall comply with such code, ordinance, or regulation, where applicable; otherwise the following standards shall be met for food sanitation:

1. All food shall be from sources approved or considered satisfactory. The use of hermetically sealed containers (home canned food) is prohibited.
2. All milk including dry milk powder shall be from a Grade A pasteurized source.
3. Raw fruits and vegetables shall be washed before use.
4. Stuffing, poultry, and pork products shall be thoroughly cooked before being served.
5. Milk and food used in family style feeding shall not be placed on eating table longer than 15 minutes prior to beginning of meal. All food left over from the table in family-style feeding shall be discarded.
6. Potentially hazardous foods requiring cold storage shall be maintained at 45°F or below, and accurate thermometers shall be kept in the refrigerators. Potentially hazardous food requiring hot storage shall be at an internal temperature of 140°F or above. Frozen foods shall be maintained at a temperature of 0°F or below. Thermometers shall be placed in all freezers.
7. Milk and other potentially hazardous foods shall be kept in the proper temperature ranges and be protected properly, except during the time of preparation.
8. All dry food supplies shall be stored in closed containers. These foods shall be stored in a manner to prevent possible contamination and to allow for proper cleaning of the storage area.
9. All food shall be protected from contamination during storage, preparation, transportation, and serving.
10. No poisonous or toxic materials except those required to maintain sanitary conditions and for sanitization purposes may be used or stored in a food-service area of a facility.
11. Poisonous and toxic materials shall be identified, stored, and used only in such a manner and under such conditions as will not contaminate food or constitute a hazard to the population of a facility.
12. All equipment and utensils shall be so designed and constructed of such material and workmanship as to be smooth, easily cleanable, and durable, and shall be in good repair.
13. The food-contact surfaces or equipment and utensils shall be easily accessible for cleaning, nontoxic, corrosion resistant, and relatively nonabsorbent; exceptions may be made to the above materials requirements for equipment such as cutting boards, blocks, and bakers' tables.

(Rule 1240-04-04-.11, Appendix E, continued)

14. All equipment shall be installed and maintained to facilitate the cleaning thereof and of all adjacent areas.
15. Equipment in use at the time of adoption of this standard that does not meet fully the above requirements may be continued in use if it is in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces are nontoxic.
16. All eating and drinking utensils shall be thoroughly cleaned and sanitized after each use with the exception of single-service utensils which shall be discarded following use.
17. Single-service articles shall be made from nontoxic materials and shall be stored, handled, and dispensed in a sanitary manner.
18. All utensils and food-contact surfaces or equipment used in the preparation, transportation, service, display, or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to such use.
19. Cooking surfaces of equipment shall be cleaned at least once a day.
20. All kitchenware and food-contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drink, and all food-storage utensils, shall be thoroughly cleaned after each use.
21. Nonfood contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.
22. After cleaning and until use, all food-contact surfaces of equipment and utensils shall be stored and handled as to be protected from contamination.
23. In facilities defined by the Department of Human Services as existing, a two-compartment sink can be used for washing and rinsing utensils, provided an additional container or sink is used for sanitation of the utensils.

Domestic type dishwashing machines are acceptable provided the temperature at the utensil surface is 160°F after the end of one complete cycle. If 160° is not obtained at the end of one complete cycle, an additional sanitizing rinse for utensils shall be provided in a separate container or sink.

Facilities which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use single-service articles.

XIV. *Housekeeping.*

All portions of the building shall be maintained in a clean condition. All rooms shall be maintained in an orderly manner. Grounds shall be kept clean.

APPENDIX F

TENNESSEE DEPARTMENT OF HUMAN SERVICES
FIRE SAFETY INSPECTION REPORT

FAMILY CHILD CARE HOMES INSPECTED BY THE DEPARTMENT OF HUMAN SERVICES

Name of facility: _____

Street address: _____ Telephone number: _____

City: _____ State: _____ Zip code: _____

Age range of children: _____

If this facility does not meet the State Building Code Requirements for a new building, all of the following questions must be answered "Yes".

- (01) Is wood frame construction restricted to two stories in height? ... Yes No (01)
- (02) Are children housed only on the first floor level? Yes No (02)
- (03) Does each room used for child care purposes have access to two outside exits? (One exit shall be through a window unless the room has a door directly to the outside)..... Yes No (03)
- (04) Is every closet door latch such that children can open the door from the inside?..... Yes No (04)
- (05) If this building is used for purposes not under the control of the operator, are all rooms and spaces used for child care purposes separated from the rest of the rooms by one-hour fire-rated walls and solid core doors?..... Yes No (05)
- (06) Does this facility have at least one unannounced fire drill monthly? Yes No (06)
- (07) Are all employees informed of their duties during a fire drill? Yes No (07)
- (08) Does the facility have one UL smoke detector for each room occupied by children? Yes No (08)
- (09) Does the facility have an approved A-B-C rated extinguisher near the kitchen? (at least 2-1/2 lb. rated) Yes No (09)
- (10) Do electrical outlets within children's reach have protective coverings? Yes No (10)
- (11) Are all approaches to exists kept continuously free of all obstructions? Yes No (11)
- (12) Is the building free of all unvented fuel-burning heaters? Yes No (12)
- (13) Are all fuel-burning heaters, fireplaces, wall heaters, and portable space heaters provided with a protective screen

(Rule 1240-04-04-.11, Appendix F, continued)

- attached securely to substantial supports? Yes No (13)
- (14) Are all stairways, hallways, and other means of exit kept adequately lighted at all times when the building is occupied? ... Yes No (14)
- (15) Does the space used for child care purposes have at least one window in each room which will raise up or swing out for emergency exit? Yes No (15)
- (16) If space is partially below grade on all four sides, is there an exit with a maximum of three steps or less leading directly to the outside? Yes No (16)
- (17) Does the hot water heater have a safety relief valve installed?... Yes No (17)
- (18) Are combustible materials, gasoline, or flammable liquids (paint, thinner, oil, other chemicals, etc.) properly stored outside of the building occupied by children? Yes No (18)
- (19) Does visual inspection reveal the absence of electrical hazards (overloaded electrical panel/master junction box), excessive extension cords or frayed wiring? Yes No (19)
- (20) Does every bathroom door lock permit opening of the locked door from the outside? Yes No (20)
- On this date, I found this facility to be reasonably fire safe. (Check No if Item 1, 12, or 16 above is checked No.) Yes No
- Referred to local inspector Yes No

Date_____

Counselor

Received by: _____ Date: _____

NOTE: In areas where the local Fire Department or Human Services official has responsibility for fire safety inspections, the appropriate person shall complete this form. (Human Services officials inspecting only those facilities that have seven children or less shall use this form.)

This form applies only to one- and two-family houses, garden apartments, or condominiums when each unit has access directly to the outside. Family Child Care Homes located in other types of dwelling shall meet the additional requirements listed in Family Child Care Home Standards.