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TITLE 470 DIVISION OF FAMILY AND CHILDREN

Proposed Rule
LSA Document #04-77

DIGEST

Amends 470 IAC 3-1.1, 470 IAC 3-1.2, and 470 IAC 3-1.3 to revise, update, clarify, and add miscellaneous provisions to the rules that govern child care homes. Effective 30 days after filing with the secretary of state.

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SECTION 1. 470 IAC 3-1.1-0.5 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-0.5 Minimum standards

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 0.5. This rule represents the minimum standards necessary to operate a child care home in the state of Indiana, developed under the authority of IC 12-17.2. These rules apply to the home during hours of operation as a child care home. The purpose of these rules is to protect and promote the health and safety of children in care and to support families as consumers of child care services. First and foremost, child care is the responsibility and choice of the parent. Many:

- (1) child care advocates;
- (2) providers;
- (3) licensing ~~specialists~~ **consultants**;
- (4) **office of family and children directors**; and
- (5) parents;

participated in the development of these rules. (*Division of Family and Children; 470 IAC 3-1.1-0.5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3057; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 2. 470 IAC 3-1.1-1 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-1 “Applicant” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 1. As used in this rule, “applicant” means a person **at least twenty-one (21) years of age** who applies for a license to operate a child care home. (*Division of Family and Children; 470 IAC 3-1.1-1; filed Nov 14, 1991, 1:00 p.m.: 15 IR 494; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3057; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 3. 470 IAC 3-1.1-2 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-2 “Assistant caregiver” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 2. As used in this rule, “assistant caregiver” means a person ~~eighteen (18)~~ **twenty-one (21)** years of age or older who works in a child care home under the ~~direct~~ supervision of the caregiver. (*Division of Family and Children; 470 IAC 3-1.1-2; filed Nov 14, 1991, 1:00 p.m.: 15 IR 494; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3057; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 4. 470 IAC 3-1.1-4 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-4 “Caregiver” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 4. As used in this rule, “caregiver” means a person ~~eighteen (18)~~ **twenty-one (21)** years of age or older who is responsible for the direct care, protection, and supervision of children in a child care home. The caregiver supervises assistant, student assistant, and volunteer caregivers. (*Division of Family and Children; 470 IAC 3-1.1-4; filed Nov 14, 1991, 1:00 p.m.: 15 IR 494; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3058; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 5. 470 IAC 3-1.1-6 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-6 “Child care” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 6. As used in this rule, “child care” means a service for families ~~on behalf of children and their parents which is designed to supplement daily parental care.~~ **that provides for the health, safety, and supervision of a child’s social,**

emotional, and educational growth. *(Division of Family and Children; 470 IAC 3-1.1-6; filed Nov 14, 1991, 1:00 p.m.: 15 IR 494; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3058; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 6. 470 IAC 3-1.1-7.2 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-7.2 “Class I child care home” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 7.2. (a) As used in this rule, “class I child care home” means a child care home that serves any combination of full-time and part-time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least grade ~~one~~ 1. The addition of three (3) school ~~aged~~ **age** children may not occur during a break in the school year that exceeds four (4) weeks.

(1) A class I child care home may serve a school age child during a break in the school year that exceeds four (4) weeks when the school age child:

(A) was in the home part time during the four (4) months preceding the break; or

(B) has a sibling attending the child care home.

(2) The child care home must meet the following requirements:

(A) Provide at least thirty-five (35) square feet for each child.

(B) Maintain the child to staff ratio required under rules adopted by the division for each age group of children in attendance.

(C) Provide age appropriate toys, games, equipment, and activities for each age group of children enrolled.

(D) If the licensee does not reside in the child care home, the child care home must have:

(i) at least two (2) exits that comply with the exit requirements for an E-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission;

(ii) an illuminated exit sign over each required exit; and

(iii) emergency lighting for each required exit.

(3) The licensee for the child care home has maintained a class I child care home license for at least twelve (12) children:

(A) for at least one (1) year; and

(B) without any citations for noncompliance.

(b) A child:

(1) for whom a provider of care is a:

(A) parent;

(B) stepparent;

(C) guardian;

(D) custodian; or

(E) other relative; and

(2) who is at least seven (7) years of age;

shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

(Division of Family and Children; 470 IAC 3-1.1-7.2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3059; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 7. 470 IAC 3-1.1-7.4 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-7.4 “Design professional” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 7.4. As used in this rule, “design professional” means:

(1) an architect;

(2) an engineer; or

(3) other professional ~~who is as approved to file building plans and is qualified to determine if a structure meets the~~

~~definition of a residential structure: by the CDFC.~~
(Division of Family and Children; 470 IAC 3-1.1-7.4; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3059; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 8. 470 IAC 3-1.1-8 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-8 “Child care provider” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 8. As used in this rule, ~~“direct~~ “child care provider” means any individual who provides child care services to children. ~~This~~ **The** term includes the following:

- (1) **The** licensee, when acting as **a** caregiver.
- (2) **The** caregiver, assistant caregivers, and student assistants.
- (3) A volunteer **caregiver**.

(Division of Family and Children; 470 IAC 3-1.1-8; filed Nov 14, 1991, 1:00 p.m.: 15 IR 495; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3059; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 9. 470 IAC 3-1.1-10 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-10 “Infant” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 10. As used in this rule, “infant” means a child from birth to ~~twelve (12)~~ **sixteen (16)** months of age. (Division of Family and Children; 470 IAC 3-1.1-10; filed Nov 14, 1991, 1:00 p.m.: 15 IR 495; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 10. 470 IAC 3-1.1-12 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-12 “Licensee” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 12. As used in this rule, “licensee” means an individual or corporation who is licensed to operate a child care home. A licensee may be licensed to operate more than one (1) child care home. The licensee **must be at least twenty-one (21) years of age at the time of application and** may be the caregiver for only one (1) child care home at a time. (Division of Family and Children; 470 IAC 3-1.1-12; filed Nov 14, 1991, 1:00 p.m.: 15 IR 495; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3059; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 11. 470 IAC 3-1.1-12.5 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-12.5 “Probationary license” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 12.5. (a) As used in this rule, “probationary license” means a ~~document~~ **license** issued to a child care home licensee ~~who that~~ is temporarily unable to comply with this rule. The CDFC may grant a probationary license if **the:**

- (1) ~~the~~ noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) ~~the~~ licensee files a plan with the COFC to correct the areas of noncompliance within the probationary period; and
- (3) ~~the~~ COFC approves the plan.

(b) The COFC shall act upon a plan of correction within thirty (30) days of receipt.

(c) A probationary license is valid for not more than six (6) months. The CDFC may extend a probationary license for one (1) additional period of six (6) months.

(d) An existing license is invalidated when a probationary license is issued.

(e) Upon receipt of a probationary license, the licensee shall return to the COFC the previously issued license.

(f) At the expiration of the probationary license, the CDFC shall:

(1) reinstate the original license to the end of the original term of the license;

(2) issue a new license; or

(3) revoke the license.

(Division of Family and Children; 470 IAC 3-1.1-12.5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3060; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 12. 470 IAC 3-1.1-13 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-13 “Protected outdoor play area” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 13. As used in this rule, “protected outdoor play area” means an area that is safely enclosed by ~~either a fence or natural boundaries~~ **a physical structure**. *(Division of Family and Children; 470 IAC 3-1.1-13; filed Nov 14, 1991, 1:00 p.m.: 15 IR 495; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 13. 470 IAC 3-1.1-14 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-14 “Provisional license” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 14. As used in this rule, “provisional license” means a ~~document~~ **license** issued to **an applicant** for a child care home ~~licensee whose services are needed but~~ who is not able to demonstrate compliance with a rule because the child care home is not in full operation. A provisional license may be issued for a period not to exceed twelve (12) months and is subject to review every three (3) months. *(Division of Family and Children; 470 IAC 3-1.1-14; filed Nov 14, 1991, 1:00 p.m.: 15 IR 495; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3060; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 14. 470 IAC 3-1.1-15 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-15 “Relatives” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 15. As used in this rule, “relatives” means a relationship to an individual who is less than eighteen (18) years of age by marriage, blood, or adoption, including:

(1) parents;

(2) grandparents;

(3) brothers;

(4) sisters;

(5) stepparents;

(6) stepgrandparents;

(7) stepsisters;

(8) stepbrothers;

(9) uncles;

- (10) aunts; ~~and~~
- (11) first cousins; or
- (12) a foster parent.

(Division of Family and Children; 470 IAC 3-1.1-15; filed Nov 14, 1991, 1:00 p.m.: 15 IR 495; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3060; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 15. 470 IAC 3-1.1-16 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-16 “Residential structure” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 16. (a) As used in this rule, “residential structure” means a dwelling unit as that term is defined in ~~675 IAC 14-4~~ **the rules of the fire prevention and building safety commission**. It may be the applicant’s or licensee’s own residence.

(b) If the applicant, or any person, does not presently physically reside in the structure, **the COFC may request that** the applicant or licensee ~~shall~~ provide documentation by a design professional that the structure qualifies as a residential structure before a license for a child care home may be issued.

(c) Licensed child care homes that hold a regular license with the CDFC on the effective date of this rule are exempt from meeting the requirements of subsection (b). *(Division of Family and Children; 470 IAC 3-1.1-16; filed Nov 14, 1991, 1:00 p.m.: 15 IR 495; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3060; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 16. 470 IAC 3-1.1-20 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-20 “Student assistant” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 20. As used in this rule, “student assistant” means an individual fourteen (14) years of age through seventeen (17) years of age who works in a child care home under the ~~direct~~ supervision **and within hearing distance** of the caregiver. *(Division of Family and Children; 470 IAC 3-1.1-20; filed Nov 14, 1991, 1:00 p.m.: 15 IR 496; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3060; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 17. 470 IAC 3-1.1-20.1 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-20.1 “Supervision” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 20.1. As used in this rule, “supervision” means guidance of the children’s behavior and activities to ensure their health, safety, and well-being. Children must be within sight and sound of a caregiver at all times. *(Division of Family and Children; 470 IAC 3-1.1-20.1)*

SECTION 18. 470 IAC 3-1.1-22.5 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-22.5 “Volunteer caregiver” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 22.5. As used in this rule, “volunteer **caregiver**” means a ~~direct~~ child care provider who is not paid. If the volunteer is counted in the child to staff ratio, he or she must be fourteen (14) years of age or older and must meet the

same requirements as paid personnel. (*Division of Family and Children; 470 IAC 3-1.1-22.5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3061; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 19. 470 IAC 3-1.1-24 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-24 Child care home capacity

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 24. ~~A maximum of fifteen (15) years of age may be present in the Class I~~ **The licensee shall not care for more children who are less than eleven (11) years of age may be present in the Class I than is authorized by the child care home at any one (1) time during any part of the day. This number includes the caregiver's own children, related children, unrelated children and any part-time license definition in this rule. The licensee may care for three (3) additional children, grade 1 and above as listed in the class I child care children present. This number home definition. Capacity includes:**

- (1) the licensee's related children under ~~age~~ **seven (7) years of age;**
- (2) all unrelated children **under eighteen (18) years of age;** and
- (3) any part-time child care children present.

The licensee's related children who are at least seven (7) years of age shall not be counted in the capacity. (*Division of Family and Children; 470 IAC 3-1.1-24; filed Nov 14, 1991, 1:00 p.m.: 15 IR 496; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3061; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 20. 470 IAC 3-1.1-28 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-28 Initial licensure

Authority: IC 12-13-5-3

Affected: IC 5-2-12; IC 12-14-5-2; IC 12-17.2

Sec. 28. (a) An applicant for a child care home license shall do the following:

- (1) ~~Attend~~ **Complete** an orientation training arranged or approved by the CDFC.
- (2) Comply with application procedures required by this rule.
- (3) Submit to the COFC a completed, signed application for a child care home license, including attachments required to demonstrate compliance with this rule.
- (4) Submit a statement attesting that the applicant has not been:
 - (A) convicted of a felony or a misdemeanor relating to the health and safety of children; and
 - (B) charged with:
 - (i) a felony; or
 - (ii) a misdemeanor relating to the health and safety of children;during the pendency of the application.
- (5) ~~Within thirty (30) days of application,~~ Submit a written medical statement, including proof of a Mantoux tuberculin test or chest x-ray, signed by a physician or a certified nurse practitioner. (Refer to section 34 of this rule.)
- (6) Submit a **satisfactory** water quality test as required by section 47(b) of this rule.
- (7) **Provide documentation to the division that the licensee has received a high school diploma or high school equivalency certificate as described in IC 12-14-5-2.**
- (8) **Provide documentation to the division that the licensee has:**
 - (A) an associate's degree or higher with at least twelve (12) hours in early childhood education, child development, or a related field; or
 - (B) completed, is enrolled in, or agrees to complete within the next three (3) years a child development associate (CDA) credential or a similar program approved by the division.
 - (i) This applies to class I applicants not licensed prior to July 1, 2001.
 - (ii) If a licensee is exempt under item (i) and experiences a break in licensing status, the exemption no longer applies.
- (9) All applicants who have lived in the state less than two (2) years shall submit a criminal history check from the state last resided in.
- (10) All applicants will complete a national criminal history check and send the original results with the child

care home application to the county office of family and children.

(11) All applicants, employees, volunteer caregivers, and household members over eighteen (18) years of age must submit to a five (5) panel drug test as required by the division and enroll in a pool for random testing.

(b) The COFC shall do the following:

- (1) Conduct a **state** criminal history check on the applicant and the applicant's spouse.
- (2) Conduct a check of the applicant, the applicant's spouse, and any others living in the home to determine whether their name appears on the sex offender registry, IC 5-2-12 et seq.
- (3) Schedule a visit to the home during normal business hours and complete a child care home inspection checklist.
- (4) Submit a written recommendation for child care home licensure to the CDFC based upon the home inspection checklist and the documents submitted by the applicant under subsection (a).
- (5) The COFC shall return an incomplete application to **the applicant or** applicants with a notation as to omissions and without acting on the application.

(6) Conduct a child abuse check of the applicant, the applicant's spouse, and any others living in the home to determine if any of them have substantiated abuse or neglect reports.

(c) The CDFC shall approve or deny the application for child home care licensure within sixty (60) days of the date the application is received by the COFC. (*Division of Family and Children; 470 IAC 3-1.1-28; filed Nov 14, 1991, 1:00 p.m.: 15 IR 497; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3061; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 21. 470 IAC 3-1.1-28.5 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-28.5 Annual inspection

Authority: IC 12-13-5-3

Affected: IC 5-2-12; IC 12-17.2

Sec. 28.5. (a) The COFC will send a letter of request to the licensee for an information update ~~which that~~ includes **the following:**

- (1) The name of the licensee.
- (2) The name of the caregiver.
- (3) The address and phone number of the child care home. ~~and~~
- (4) The license expiration date.

(b) The COFC shall make an annual visit to the home during normal business hours and will complete a limited inspection checklist.

(c) The COFC shall conduct a check of the applicant, the applicant's spouse, and any others living in the home to determine whether their name appears on the sex offender registry, IC 5-2-12 et seq.

~~(e)~~ (d) The caregiver shall maintain and make available verification of the following:

- (1) Annual Mantoux tuberculin test or chest x-ray for ~~direct~~ child care providers and all family members over eighteen (18) years of age.
- (2) **Statewide** criminal history checks conducted for ~~direct~~ child care providers and family members and others over eighteen (18) years of age living in the home.
- ~~(3) Conduct a check of the applicant, the applicant's spouse, and any others living in the home to determine whether their name appears on the sex offender registry, IC 5-2-12 et seq.~~
- ~~(4)~~ (3) Notification of the local fire department.
- ~~(5)~~ (4) Certification of current first aid training and annual CPR certification for ~~direct~~ child care providers.
- ~~(6)~~ (5) Water quality test as required by section 47(b) of this rule.

(7) Results of a national criminal history check for each applicant.

(*Division of Family and Children; 470 IAC 3-1.1-28.5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3062; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 22. 470 IAC 3-1.1-29 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-29 Relicensure

Authority: IC 12-13-5-3

Affected: IC 5-2-12; IC 12-17.2

Sec. 29. (a) The licensee shall submit to the COFC the following prior to relicensure:

- (1) A new application completed and signed by the applicant, **accompanied by the original results of a national criminal history check for each applicant.**
- (2) Written proof of an annual Mantoux tuberculin test or chest x-ray as required ~~(Refer to section 34 of under this rule.~~
- (3) Attachments required to demonstrate compliance of this rule.
- (4) A statement by the applicant attesting that the applicant has not been:
 - (A) convicted of a felony or a misdemeanor relating to the health and safety of children; and
 - (B) charged with:
 - (i) a felony; or
 - (ii) a misdemeanor relating to the health and safety of children;during the pendency of the application.
- (5) Water quality testing as required by section 47(b) of this rule.

(b) The COFC shall do the following:

- (1) Conduct a **statewide** criminal history check on the applicant and the applicant's spouse.
- (2) Conduct a check of the applicant, the applicant's spouse, and any others living in the home to determine whether their name appears on the sex offender registry, IC 5-2-12 et seq.
- (3) Schedule a visit to the home during normal business hours and complete a child care home inspection checklist.
- (4) Submit a written recommendation for child care home licensure to the CDFC based upon the completed home inspection checklist and the documents submitted by the applicant under subsection (a).

(c) The CDFC shall approve or deny the application for child care licensure within sixty (60) days of the date the application is received by COFC. *(Division of Family and Children; 470 IAC 3-1.1-29; filed Nov 14, 1991, 1:00 p.m.: 15 IR 497; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3062; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 23. 470 IAC 3-1.1-29.5 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-29.5 License provisions

Authority: IC 12-13-5-3

Affected: IC 12-17.2-5-12

Sec. 29.5. (a) A child care home license is valid for two (2) years unless:

- (1) revoked;
- (2) suspended by the CDFC; or
- (3) voluntarily surrendered.

(b) The number of children cared for at any one (1) time shall not exceed the licensed capacity.

(c) The license is valid only for the name and location on the license and is not transferable.

(d) The license shall be publicly displayed in the home. (IC 12-17.2-5-12(c))

(e) Whenever an applicant applies for multiple licenses located within the same structure or building, a signed statement from a design professional must be submitted certifying that each child care home to be licensed meets the state building code requirements for the proposed use ~~which that~~ apply to fire and safety issues. Certification must include any modifications required to comply with the state building code requirements for the multiple occupancies requested.

(f) If two (2) or more licensed child care homes are contiguously located within the same residential structure, each

licensed facility must be separated by a two (2) hour fire-resistive wall between each licensee.

(g) Whenever an applicant applies for multiple licenses located within the same structure or building, each home must meet the requirements of licensure as independent homes.

(h) Multiple child care homes under one (1) roof ~~which~~ **that** utilize a private well will also be subject to the water testing requirements of 327 IAC 8 whenever twenty-five (25) or more people are present.

(i) Licensees who ~~hold~~ **held** a regular or provisional license ~~upon the effective date of this rule on August 3, 1996,~~ are exempted from meeting the requirements of subsections (f) and (g). (*Division of Family and Children; 470 IAC 3-1.1-29.5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3063; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 24. 470 IAC 3-1.1-32.1 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-32.1 Records requirements

Authority: IC 12-13-5-3

Affected: IC 5-2-12; IC 12-17.2-2-1.5

Sec. 32.1. (a) The requirements for staff and adult records are as follows:

(1) The licensee shall maintain the following staff and adult documentation in the child care home for review by the COFC:

(A) Record of initial physical examination documenting that they are free of communicable disease.

(B) Record that they are free of tuberculosis within thirty (30) days of employment or licensure and annually thereafter. Such records shall include the following:

(i) A Mantoux tuberculin skin test, with results recorded in millimeters, or a chest x-ray and result and repeated annually.

(ii) If the Mantoux test is considered positive, they shall have a negative chest x-ray or a statement from a physician that they are free from communicable disease and documented annually.

(C) Certification of a current first aid course, training in "Universal Precautions", annual CPR certification, and inservice training by child care providers.

(D) Results of a five (5) panel drug test signed by a medical review officer for each household member over eighteen (18) years of age and all child caregivers. Drug test results are required before a caregiver is hired or a volunteer begins caring for children.

(2) The COFC shall obtain the following documentation:

(A) Statewide criminal history checks on employees, volunteers, and all household members who are at least eighteen (18) years of age.

(B) A criminal history check indicating a conviction of any of the following offenses is sufficient grounds to revoke or deny licensure:

(i) Adoption schemes.

(ii) Adulterating drugs, controlled substances, or preparations.

(iii) Aiding or abetting the filing of false claims.

(iv) Allowing an establishment to be used for illegal purposes.

(v) Any crime that involves a violent act or a threat of a violent act.

(vi) Armed robbery.

(vii) Arson.

(viii) Assault.

(ix) Attempted armed robbery, robbery, or burglary.

(x) Attempted criminal sexual conduct.

(xi) Attempted homicide or murder.

(xii) Attempted kidnapping.

(xiii) Battery.

(xiv) Bribery.

(xv) Burglary.

(xvi) Child abuse, neglect, or exploitation.

- (xvii) Concealing stolen property.
- (xviii) Criminal sexual conduct in any degree.
- (xix) Cruelty toward or torture of any animal.
- (xx) Cruelty toward or torture of any person.
- (xxi) Embezzlement.
- (xxii) Extortion.
- (xxiii) Filing of false claims.
- (xxiv) Fraud.
- (xxv) Homicide.
- (xxvi) Kidnapping.
- (xxvii) Larceny by conversion.
- (xxviii) Larceny by trick.
- (xxix) Manslaughter.
- (xxx) Mayhem.
- (xxxi) Murder.
- (xxxii) Negligent homicide.
- (xxxiii) Obtaining property by false pretenses.
- (xxxiv) Offenses involving narcotics, alcohol, or controlled substances that result in a felony conviction.
- (xxxv) Poisoning.
- (xxxvi) Prostitution or related crimes.
- (xxxvii) Receiving stolen property.
- (xxxviii) Robbery.
- (xxxix) Unlawful manufacture or delivery of drugs or possession with intent to manufacture or deliver drugs.

(3) The child care home may request a waiver under subdivision (2) based on the specific circumstances of the case, but a person shall not be employed by a child care home or a child care home approved for licensure unless the waiver is granted.

(4) The child care home shall notify the division immediately of any felony conviction that appears on a criminal history check or is otherwise known by the child care home.

(5) Any felony listed in subdivision (2)(B) is sufficient grounds to revoke or deny licensure. Hiring of an employee with felony convictions not listed in subdivision (2)(B) will require prior approval of the division.

(6) The division must approve any exceptions made under this section.

(7) Checks of the applicant, the applicant's spouse, and any others living in the home to determine whether their name appears on the sex offender registry, IC 5-2-12 et seq.

(b) The requirements for children's records are as follows:

(1) The licensee shall keep records regarding each child as required by this rule. Upon request of the COFC, the licensee shall make these records available for review:

(A) to determine compliance with these rules; and

(B) when information is needed in a child protection investigation.

(2) The CDFC shall keep records regarding children and facts learned about children and their families confidential, and such records shall not be removed from the home except as needed in a negative licensing action or a child protective services (CPS) investigation.

(3) The licensee shall maintain an enrollment form for each child receiving services that shall include the following:

(A) The child's name and date of birth.

(B) Verification of the child's birth date.

(C) Name, address, and home and work telephone numbers of the child's parent or legal guardian.

(D) The telephone number of a responsible adult in case of emergency.

(E) The names of adults authorized to pick the child up from the home.

(F) A release for emergency medical care for each child signed by the child's parent or legal guardian.

(G) A statement as described in section 37(b) of this rule regarding each child's general health within thirty (30) days of admission.

(H) A written permission from a parent or legal guardian that the child may participate in activities away

from the child care home.

(I) A written statement of the licensee's discipline policy signed by the child's parent or legal guardian.

(J) Daily attendance records for children in the child care home shall:

- (i) be maintained for at least two (2) years at the child care home site;
- (ii) include arrival and departure times; and
- (iii) include parent or authorized person's signature.

(4) A licensee shall maintain and send, when applicable, a licensed child care center/home report as required by IC 12-17.2-2-1.5.

(5) A licensee shall maintain written records for all injuries that occur while children are under the care of child care home staff, both on and off the premises.

(A) Minor injuries shall be reported in writing to the parents on the day of occurrence, including the following information:

- (i) The date and time of injury.
- (ii) How the injury occurred.
- (iii) A description of the injury.
- (iv) The type of treatment administered.

(B) Injuries requiring medical attention shall be reported immediately to the parent verbally and then recorded on forms provided by the division and distributed as follows:

- (i) One (1) copy of the report given to parents.
- (ii) One (1) copy of the report kept in the child's individual file.
- (iii) One (1) copy sent to the division.

(c) The licensee shall maintain documentation of the following other records:

(1) Annual vaccination records for animals that are kept at the child care home subject to rabies.

(2) A record of monthly fire drills containing the following:

- (A) The date and time of the fire drill.
- (B) The name of the individual who conducted the fire drill.
- (C) The weather conditions at the time of the fire drill.
- (D) The amount of time required to fully evacuate the facility.

(3) Fire drill records shall be maintained at the licensed home for two (2) years.

(4) A written evacuation plan for the child care home in case of emergency.

(5) A policy prohibiting the use of tobacco, potentially toxic substances in a manner other than their intended purpose, and the use of alcohol or an illegal substance in the child care home while child care is being provided.

(Division of Family and Children; 470 IAC 3-1.1-32.1)

SECTION 25. 470 IAC 3-1.1-33 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-33 Staff requirements

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 33. (a) The licensee may be the caregiver for no more than one (1) child care home. If a licensee operates more than one (1) child care home, the licensee shall maintain or employ a caregiver in each additional child care home.

(b) The assistant caregiver shall work under the ~~direct~~ supervision of the caregiver.

(c) The assistant caregiver shall be responsible for the child care home in the absence of the caregiver.

(d) If an assistant caregiver under twenty-one (21) years of age is left in charge of a child care home, the ~~parent~~ parents of each child must be notified in writing.

~~(e)~~ **(e) Student assistants and volunteers shall work under the ~~direct~~ supervision of a caregiver and shall not be left in charge of a child care home. *(Division of Family and Children; 470 IAC 3-1.1-33; filed Nov 14, 1991, 1:00 p.m.: 15***

IR 498; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3064; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 26. 470 IAC 3-1.1-33.5 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-33.5 Staff orientation, training, and development

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 33.5. (a) ~~Direct~~ Child care providers, including volunteers, shall receive training in fire prevention and safety procedures within one (1) week of starting employment or volunteer work.

(b) ~~Direct~~ Child care providers, including volunteers, shall receive training in the following within thirty (30) days of starting employment or volunteer work:

- (1) The child care home inspection checklist.
- (2) Confidential treatment of personal information about children in care and their families.
- (3) Procedures for preventing, detecting, and reporting suspected child abuse and neglect.
- (4) Universal precautions.

(c) ~~Direct~~ Child care providers shall complete a first aid course every three (3) years ~~which that~~ includes training for the emergency treatment of:

- (1) poisoning;
- (2) seizures;
- (3) hemorrhaging; and
- (4) choking.

The course must also include training in artificial respiration. Training shall be completed within ninety (90) days of starting employment or volunteer work.

(d) At least one (1) ~~direct~~ child care provider shall be trained in pediatric cardiopulmonary resuscitation training annually and shall be on the premises at all times.

(e) **Caregivers shall complete at least twelve (12) clock hours annually of staff development activities that shall consist of inservice training, workshops, conferences, or college courses closely related to group care of children. First aid and CPR cannot be counted for more than six (6) hours of inservice training. Recommended topics include the following:**

- (1) **Child growth and development.**
- (2) **Child care programming and activities.**
- (3) **Health and safety practices.**
- (4) **Inclusion of children with special needs.**
- (5) **Nutrition and eating habits.**
- (6) **Parent communication.**
- (7) **Use of physical space.**

(Division of Family and Children; 470 IAC 3-1.1-33.5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3065; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 27. 470 IAC 3-1.1-34 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-34 Medical requirements

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 34. (a) ~~Direct~~ Child care providers who work in the home more than three (3) times a month and all members of the household having direct contact with children receiving care shall have an initial physical examination by a physician or certified nurse practitioner indicating that they:

- (1) are free from communicable disease;

- (2) have no physical or other condition ~~which~~ **that** would endanger the health or welfare of children in care; and
- (3) have an annual Mantoux tuberculin test or chest x-ray.

(b) The requirements stated in subsection (a) shall not be required for ~~direct~~ child care providers who present a signed statement to the COFC that their religious **or personal** beliefs preclude compliance with the aforementioned medical requirements. The licensee shall provide written notice to the parents or legal guardians enrolling their children in the child care home that a religious **or personal** exemption statement has been filed with the COFC by the child care provider.

(c) The above requirements shall be met within thirty (30) days of application. (*Division of Family and Children; 470 IAC 3-1.1-34; filed Nov 14, 1991, 1:00 p.m.: 15 IR 498; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3065; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3472; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 28. 470 IAC 3-1.1-35 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-35 Child abuse and neglect

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 35. (a) The caregiver shall report immediately suspected:

- (1) physical abuse;
- (2) sexual abuse;
- (3) child neglect; or
- (4) child exploitation;

as required by IC 31-6-11-3 [*IC 31-6 was repealed by P.L.268-1995, SECTION 17, effective July 1, 1995.*] to child protection services (CPS) or local law enforcement.

(b) A substantiated case of abuse or neglect in a child care home constitutes full and sufficient grounds for denial or revocation of the child care home license. (*Division of Family and Children; 470 IAC 3-1.1-35; filed Nov 14, 1991, 1:00 p.m.: 15 IR 499; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3066; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3472; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 29. 470 IAC 3-1.1-36.5 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-36.5 Child to staff ratio

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 36.5. (a) The maximum capacity in a class I child care home shall be twelve (12) children at any one (1) time plus three (3) children during the school year who are enrolled in at least grade 1. The addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks.

(b) Children shall not be left unattended and shall be supervised at all times **within sight and sound**.

(c) Only ~~direct~~ child care providers shall be counted in determining the child to staff ratio.

(d) The ratio shall include all unrelated children present in the home.

(e) The following child to staff ratios apply:

Type of Home	Child:Staff Ratio
Infant/Toddler Mixed (Birth-24 months)	6:1 * 4:1

*Two (2) of the six (6) children must be at least sixteen (16) months of age and walking. Otherwise the ratio is 4:1.

Mixed Age Groups
(Birth–~~6~~ 17 years)

10:1*

*No more than three (3) of the ten (10) children may be under sixteen (16) months of age and must be walking.
3 years and older

12:1

(~~3–10~~ years)

(Division of Family and Children; 470 IAC 3-1.1-36.5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3066; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3472; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 30. 470 IAC 3-1.1-36.6 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-36.6 Supervision

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 36.6. (a) The child care provider shall be responsible for the supervision of the children at all times while the children are:

- (1) at the facility;**
- (2) indoors;**
- (3) outdoors; and**
- (4) on excursions.**

(b) Supervision shall be maintained by a caregiver who is within sight and sound of the children.

(c) The caregiver shall not engage in any activity while on duty during customary business hours that distracts attention from providing child care services. Such activities may include:

- (1) other employment;**
- (2) volunteer services;**
- (3) recreation;**
- (4) hobbies; or**
- (5) frequent or prolonged socialization with adults.**

(Division of Family and Children; 470 IAC 3-1.1-36.6)

SECTION 31. 470 IAC 3-1.1-37 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-37 Requirements for admission to the home

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 37. (a) Prior to acceptance of children, the caregiver shall have the parent or legal guardian:

- (1) complete and sign an enrollment form for the child;**
- (2) complete and sign a release for emergency medical care for the child;**
- (3) sign a copy of the licensee's written discipline policy; and**
- (4) see all areas of the home and property to be used for child care.**

(b) Within thirty (30) days of a child's admission, the licensee shall receive a written statement from the child's parent or legal guardian signed by a physician or a certified nurse practitioner which states stating the following:

- (1) That the child can participate in the child care home's activities.**
- (2) That the child has had immunizations which that are up-to-date for the child's age including pneumococcal conjugate and varicella or demonstrated immunity to chicken pox.**
- (3) Whether the child has allergies or any chronic health conditions.**

(c) A caregiver shall inform the parent or legal guardian of their right to request in writing an exemption of the medical requirements as required by this section based upon their religious or personal beliefs. Nothing in this subsection precludes the child care home from using emergency measures to treat such a child by first aid techniques

or to exclude the child where control of a contagious disease may be necessary.

(d) A child shall not be required to comply with subsection (b)(2) and (b)(3) when the parent or legal guardian has provided a signed statement regarding religious **or personal** exemptions to the care home licensee.

(e) Neither a licensee nor a caregiver shall discriminate relative to the admission of children on the basis of:

- (1) race;
- (2) color;
- (3) religion;
- (4) sex;
- (5) national origin;
- (6) ancestry; or ~~handicap.~~
- (7) **disability.**

(f) A caregiver shall inform the parent or legal guardian that unscheduled visits by a custodial parent or guardian shall be permitted at any time the child care home is in operation.

(g) A licensee shall provide to the COFC proof that each parent provided evidence to the licensee of each child's birth with either a birth certificate or a passport.

(h) A licensee shall complete the COFC's consent form to release the name and date of birth of children in the licensee's care to the Indiana clearinghouse on missing children. *(Division of Family and Children; 470 IAC 3-1.1-37; filed Nov 14, 1991, 1:00 p.m.: 15 IR 499; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3066; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 32. 470 IAC 3-1.1-38 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-38 Activities for healthy development

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 38. ~~(a)~~ The caregiver shall provide **appropriate and safe** activities ~~according to~~ **address** the ~~age~~ developmental needs, **emotional needs**, interests, and number of children in care ~~while including through the inclusion of~~ both active and quiet play. **which may consist of Materials for the provision of appropriate activities include the following:**

- (1) Safe, age-appropriate toys **for large and small motor development.**
- (2) Games.
- (3) **Puzzles.**
- (4) **Books.**
- (5) **Art material.**
- (6) **Storage.**
- (7) **Activity-related** and equipment for both indoor and outdoor play.

(b) Opportunity shall be provided for children to play outdoors daily except when:

- (1) the severity of the weather poses a safety or health hazard; or
- (2) when there is a health related reason documented by a parent, legal guardian, or physician for a child to remain indoors.

(Division of Family and Children; 470 IAC 3-1.1-38; filed Nov 14, 1991, 1:00 p.m.: 15 IR 500; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3067; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 33. 470 IAC 3-1.1-38.5 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-38.5 Outdoor environment

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 38.5. (a) Opportunity shall be provided for children to play outdoors daily except when:

- (1) the severity of the weather poses a safety or health hazard;**
- (2) the wind chill is at or below twenty-five (25) degrees Fahrenheit as reported by the National Weather Service; or**
- (3) there is a health-related reason documented by a parent, legal guardian, or physician for a child to remain indoors.**

(b) The use of trampolines in the child care area is prohibited.

(c) Climbing and play structures shall not be placed on cement or asphalt.

(d) Play equipment shall not have:

- (1) sharp or rough edges; or**
- (2) pinch points.**

(e) Free swinging ropes are prohibited.

(f) Play space must be free of litter and with age-appropriate equipment installed safely and in good repair.

(g) Sand used as a play space or ground cover shall be covered when not in use or raked daily before use.

(h) Neighborhood playgrounds, if used, must meet the same requirements for a home play area. *(Division of Family and Children; 470 IAC 3-1.1-38.5)*

SECTION 34. 470 IAC 3-1.1-39 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-39 Swimming

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 39. (a) The caregiver shall be physically present at the swimming ~~or wading~~ pool to supervise when the children in care are swimming or wading.

(b) At least one (1) ~~direct~~ child care provider shall be available to supervise any children not swimming ~~or wading~~ in addition to staff requirements in section 36.5 of this rule.

(c) ~~Child care providers shall empty~~ Portable wading pools ~~immediately after use:~~ **shall not be used.**

(d) All inground or nonportable aboveground swimming pools accessible to children shall be in compliance with local zoning ordinances and surrounded by a fence secured with a locked gate to prevent children from entering the area unsupervised.

(e) Sprinklers may be used for outdoor water play. *(Division of Family and Children; 470 IAC 3-1.1-39; filed Nov 14, 1991, 1:00 p.m.: 15 IR 500; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3067; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 35. 470 IAC 3-1.1-40 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-40 Transportation and activities away from the child care home

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 40. (a) A caregiver shall obtain written parental permission before taking a child away from the child care home for field trips or any other activities.

(b) Children may be transported by an individual eighteen (18) years of age or older having a valid driver's license and driving a properly licensed and insured vehicle in safe condition.

(c) Children shall be transported in safety restraint equipment that is in compliance with state laws.

(d) ~~Direct~~ Child care providers shall not leave children unattended in a vehicle.

(e) Emergency contact information for all children and adults engaged in transportation or activities away from the home must be with the supervising caregiver. *(Division of Family and Children; 470 IAC 3-1.1-40; filed Nov 14, 1991, 1:00 p.m.: 15 IR 500; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3067; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 36. 470 IAC 3-1.1-41 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-41 Discipline policy

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 41. ~~(a)~~ The licensee shall provide the parent or legal guardian with a written copy of the discipline policy of the child care home.

~~(b) The following behavior shall be prohibited by all direct child care providers:~~

~~(1) Cruel, harsh, or unusual punishment.~~

~~(2) Withdrawal or the threat of withdrawal of scheduled meals or snacks, rest, or bathroom opportunities.~~

(Division of Family and Children; 470 IAC 3-1.1-41; filed Nov 14, 1991, 1:00 p.m.: 15 IR 500; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3067; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 37. 470 IAC 3-1.1-41.1 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-41.1 Positive discipline

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 41.1. (a) Caregivers shall use positive discipline.

(b) Caregivers shall do the following:

(1) Discipline using positive guidance and redirection and setting clear-cut limits.

(2) Encourage children, with adult support, to use their own words and solutions in order to resolve their own interpersonal conflicts.

(3) Communicate with children by getting down to their eye level and talking to them in a calm, quiet manner about what behavior is expected.

(4) Communicate to children using positive statements.

(Division of Family and Children; 470 IAC 3-1.1-41.1)

SECTION 38. 470 IAC 3-1.1-41.2 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-41.2 Inappropriate discipline

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 41.2. (a) Any person, while on child care home premises, shall not engage in or direct any of the following actions toward children:

(1) Inflict corporal punishment in any manner upon a child's body.

(2) Hit, spank, beat, shake, pinch, bite, or use any other measure that produces physical discomfort.

(3) Use:

- (A) cruel;**
- (B) harsh;**
- (C) unusual;**
- (D) humiliating; or**
- (E) frightening;**

methods of discipline, including threatening the use of physical punishment.

(4) Place a child in a locked or dark room.

(5) Use public or private humiliation, yelling, or abusive or profane language.

(b) Staff shall not associate disciplinary action or rewards with rest.

(c) Staff shall not associate disciplinary action with food or use food as a reward.

(d) Staff shall not associate disciplinary action or humiliate a child in regard to toileting.

(e) Caregivers shall not do the following:

(1) Permit time out to exceed one (1) minute per year of age of the child.

(2) Physically restrain children except when it is necessary to ensure the safety of the child or others present.

(Division of Family and Children; 470 IAC 3-1.1-41.2)

SECTION 39. 470 IAC 3-1.1-42 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-42 Nutrition

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 42. (a) Appropriately timed, nutritious meals and snacks, **as defined by the United States Department of Agriculture (USDA)**, shall be made available in such quantity **as and variety** to meet the needs of each child.

(b) Drinking water shall be available at all times.

(c) Menus shall be posted for parents to view.

(d) Milk shall be served with each meal. *(Division of Family and Children; 470 IAC 3-1.1-42; filed Nov 14, 1991, 1:00 p.m.: 15 IR 501; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3068; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 40. 470 IAC 3-1.1-44 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-44 Health

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 44. (a) The child care home must keep a Red Cross First Aid Manual or its equivalent in the child care home.

(b) The caregiver child care home must maintain at least one (1) first aid kit as recommended by the American Red Cross First Aid Manual or its equivalent, wherever children are in care, including but not limited to, syrup of ipecac with current date, in the one (1) for field trips and outings away from the home. Each kit shall be a closed container for storing first aid supplies, accessible to child care home staff members at all times but out of the reach of children.

(c) Child care providers shall see that children's hands are washed at a sink with soap and warm running water before meals and snacks and after toilet use. Direct child care providers shall not permit children to use a common washcloth or towel. Products used for washing, other than soap, and all drying materials shall not be used by more than

one (1) child.

(d) If a child is ill ~~direct~~ **or has a temperature of over one hundred (100) degrees Fahrenheit, an unexplained rash, or diarrhea, the** child care providers shall:

- (1) care for the child in an area separate from the other children;
- (2) **immediately** notify the child's parent or legal guardian; and
- (3) monitor the child until the parent or legal guardian arrives.

(e) The caregiver shall keep the phone numbers of the **following by the telephone:**

- (1) Ambulance.
- (2) Police.
- (3) Fire department.
- (4) Poison control center. ~~and~~
- (5) Nearest hospital. ~~by the telephone.~~

(f) Child care providers shall give or apply medication only with prior written permission from a parent or legal guardian, and only with clear, written instructions as to the dosage, time, and reason medication is to be given. Medication must be labeled with the child's name, physician's name, and pharmacy. Over-the-counter medication must also be labeled with the child's name. The caregiver shall keep a record of the date, time, and dosage of medication given.

(g) Pets must present no danger to children in the child care setting and are the sole responsibility of the child care home licensee.

(h) Direct child care providers shall restrict all animals from food areas during preparation and serving of food. *(Division of Family and Children; 470 IAC 3-1.1-44; filed Nov 14, 1991, 1:00 p.m.: 15 IR 501; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3068; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 41. 470 IAC 3-1.1-44.5 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-44.5 Medication

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 44.5. (a) Child care providers shall give or apply prescription and over-the-counter medication only with prior written permission from a parent or legal guardian.

(b) All prescription medication must be renewed annually and kept in currently labeled containers.

(c) The written order or the prescription label must show the following:

- (1) The name of the child.**
- (2) The name of the medication.**
- (3) The dosage of medication to be administered.**
- (4) The frequency or interval to be given.**
- (5) The physician's name.**
- (6) The date the prescription was filled.**

(d) Over-the-counter medication must be provided by the parent and must also be labeled with the child's name and directions specific to the administration of the medication for that child.

(e) The caregiver shall keep a record of the date, time, staff administering the drug, and dosage of prescription medication or over-the-counter medication, or both, given. *(Division of Family and Children; 470 IAC 3-1.1-44.5)*

SECTION 42. 470 IAC 3-1.1-45 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-45 General environment

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 45. (a) The licensee shall ensure that no conditions exist in the home or on the grounds where child care services are provided that would endanger the health, safety, or welfare of the children.

(b) The licensee shall identify areas in the home that will be used for child care. The child care areas shall contain adequate space for child play and rest for the number of children in care: **thirty-five (35) square feet of usable play space per child excluding the following:**

- (1) Hallways.**
- (2) Restrooms.**
- (3) Cooking areas.**
- (4) Utility rooms.**
- (5) Closets.**
- (6) Any other areas not used for child care.**

(c) The licensee shall maintain a working telephone in the child care home and shall inform the COFC of any change in telephone number.

(d) The licensee shall provide a protected outdoor play area that is safely enclosed by ~~either a fence or natural boundaries~~ **a physical structure** for children in care.

(e) The licensee shall ensure that the child care home is equipped with heat, light, and ventilation for normal occupancy.

(f) The licensee shall provide and maintain screens for windows and exterior doors when windows and doors are open for ventilation.

~~(g)~~ **(g)** The licensee shall ensure that the kitchen is equipped with a:

- ~~(1) a~~ stove and oven or microwave;
- ~~(2) a~~ refrigerator; and
- ~~(3) a~~ sink with hot and cold running water;

in operating condition sufficient to accommodate the food requirements of the number of children in care.

(h) The use of tobacco, alcohol, and illegal drugs by caregivers is prohibited at all times in the child care facility and on field trips when caregivers are responsible for the supervision of children.

(i) The provider shall ensure that all:

- (1) tobacco products;**
- (2) alcohol;**
- (3) drugs;**
- (4) toxic substances;**
- (5) lighters; and**
- (6) matches;**

are kept out of reach of the children. *(Division of Family and Children; 470 IAC 3-1.1-45; filed Nov 14, 1991, 1:00 p.m.: 15 IR 502; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3069; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 43. 470 IAC 3-1.1-45.5 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-45.5 Pets

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 45.5. (a) The provider shall be responsible for protecting the health and safety of the children from household pets and other animals at the facility.

(b) Any pet or animal present at the facility, indoors or outdoors, shall be in good health and show no evidence of carrying disease that may be harmful to children.

(c) Animal litter boxes shall not be located in areas accessible to children.

(d) All animal litter shall be removed immediately from areas accessible to children and be discarded as required by local health authorities or by placement in a covered container located outside the area used for child care.

(e) Caregivers and children shall wash their hands after handling or feeding animals.

(f) The facility shall not keep or bring the following into the child care area:

(1) Ferrets.

(2) Turtles.

(3) Iguanas.

(4) Lizards.

(5) Other reptiles.

(6) Psittacine birds (birds of the parrot family).

(g) All animals shall be restricted from food areas during preparation and serving of food. (*Division of Family and Children; 470 IAC 3-1.1-45.5*)

SECTION 44. 470 IAC 3-1.1-46 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-46 Fire prevention

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 46. (a) All child care homes shall have two (2) remotely located means of egress. If child care is provided on a second or higher story of a facility, each story shall also have two (2) remotely located means of egress.

(b) A basement area in which child care services are provided shall have a direct exit at ground level not involving stairs or ramps. The interior staircase serving the first floor is acceptable as the second exit for a basement in which child care services are provided. An example of an allowable exit is a level area directly outside the exterior door that is at least thirty-two (32) square feet. This area may be a porch, deck, or stairway landing. Bi-level and tri-level homes ~~which~~ **that are licensed and hold a regular license with the division of family and children, as of ~~the effective date of this section, July 3, 1996,~~ are exempt.**

(c) Each room of the home where child care services are provided is required to have at least two (2) means of escape (this may include one (1) window and one (1) door).

(d) All approved exit doors shall be operable from the inside without the use of a key or any special knowledge.

(e) A sliding glass door shall be acceptable as a direct exit provided that it is unobstructed, operable, and maintained in good working condition. If a screen door is attached, it shall meet the same criteria as the sliding door.

(f) A garage or any other area where hazardous materials are stored shall not be considered an approved exit.

(g) Exits shall not be blocked in the child care home.

(h) Portable, unvented oil-burning heating appliances shall not be used unless the heater complies with 675 IAC 22.

(i) Electric or gas heaters and solid fuel-burning appliances shall not be located in such a manner that they block escape in case of fire. ~~arising from a malfunctioning stove, heater, or appliance.~~

(j) When a fireplace serves as the primary source of heat, **the** licensee shall provide glass doors, noncombustible hearth, grates, and proper fireplace tools for each fireplace in use. ~~while children are present.~~ Child care providers shall ensure proper positioning of glass doors. If a fireplace is used at any time, it shall have a noncombustible hearth, screening, and grate. **The** licensee shall have the chimney flue inspected annually and cleaned if recommended. **The** licensee shall retain a written record of the inspections and cleanings for each fireplace used while children are present.

(k) **The** caregiver shall properly dispose of ashes from the fireplace in a noncombustible, covered receptacle which shall then be placed on the ground and away from any building or combustibles.

(l) **The** licensee shall provide **an** electrical or battery-operated smoke detector that is installed ~~to~~ **in accordance with the manufacturer's specifications** and is located and adjusted to operate reliably in case of smoke in any part of the child care home, including not less than one (1) smoke detector at the top of each stairway and adjacent to all sleeping areas. The alarm should be loud enough to alert all occupants in the child care home.

(m) **The** licensee shall provide a two and one-half (2½) pound or greater ABC multiple purpose fire extinguisher which shall be located on each floor of the building in which child care services are provided, including an additional extinguisher located in the kitchen area of the child care home. **Fire extinguishers shall be mounted so that the top of the fire extinguisher is not more than five (5) feet above the floor and the bottom shall be not less than four (4) inches above the floor.**

(n) **The** caregiver shall not permit trash, flammable, and combustible materials, including, but not limited to, paper and rags, to accumulate upon the premises.

(o) ~~Direct~~ Child care providers shall store flammable liquids in tightly sealed, marked containers appropriate to the type of liquid being stored. ~~Direct~~ Child care providers shall store no more than five (5) gallons of flammable liquids at any one (1) time in buildings used for child care and shall store all flammable liquids, lighters, and matches in an area inaccessible to children or in an approved fire cabinet.

(p) ~~Direct~~ Child care providers shall not store combustible material within five (5) feet of furnaces and water heaters.

(q) The licensee shall identify **or post and train all staff in** the location and operation of the gas, electric, and water shut-offs. ~~and keep accessible the gas, electric, and water shut-offs in case of emergency.~~ **Accessibility to the shut-offs shall exist and be kept clear at all times.**

(r) The caregiver shall have a written plan for evacuating in case of fire or other emergencies.

(s) The caregiver shall conduct and document ~~quarterly~~ **monthly** fire drills.

(t) The electrical wiring shall be sized to provide for the **required** load. There must not be exposed or uninsulated wiring. If used, extension cords shall ~~not be overloaded or over six (6) feet in length.~~ **equipped with circuit breakers.**

(u) The licensee shall notify the local fire department at the time of application or relicensure of the licensed capacity **any special considerations for children enrolled** and the hours of operation of the home.

(v) **The** caregiver shall promptly notify the local fire departments upon discovery of any fire ~~whether or not extinguished,~~ **before attempting to extinguish the fire** and advise of the circumstances and location of the fire.

(w) **The** caregiver shall promptly notify the local fire department upon discovery of:

(1) spontaneous or abnormal heating;

(2) any uncontrolled gas leak; or

(3) a significant spill of hazardous material or flammable or combustible liquid.

(x) **The** licensee shall permit inspection of the child care home by the SFM if requested by the CDFC upon recommendation of the COFC. If such an inspection is requested, approval would be required by the SFM prior to full licensure. *(Division of Family and Children; 470 IAC 3-1.1-46; filed Nov 14, 1991, 1:00 p.m.: 15 IR 502; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3069; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 45. 470 IAC 3-1.1-47 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-47 Sanitation

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 47. (a) The licensee shall provide and maintain screens for windows and exterior doors when windows and doors are kept open for ventilation.

(b) The licensee shall ensure that the child care home has hot and cold running water and at least one (1) **bathroom including** a toilet and sink accessible to children on each floor of the home where services are provided. Water from a source other than a regular municipal water supply shall be tested annually ~~for and the quality shall be in compliance with state regulations for potable water. quality requirements.~~

(c) ~~Direct~~ Child care providers shall wash and sanitize all food preparation areas, serving areas, and utensils daily.

(d) **The** caregiver shall keep ~~garbage food waste~~ in containers with tight-fitting lids and ~~remove it from the premises at least once a week.~~ **empty daily.** Waste paper need not be kept in a closed container. **Garbage shall be removed from the premises at least once a week.**

(e) **Toys and equipment shall be cleaned and sanitized weekly, as needed.** *(Division of Family and Children; 470 IAC 3-1.1-47; filed Nov 14, 1991, 1:00 p.m.: 15 IR 503; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3071; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 46. 470 IAC 3-1.1-48 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.1-48 Safety

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 48. (a) ~~Direct~~ Child care providers shall keep protective coverings over exposed electrical outlets.

(b) If fans ~~or heaters~~ are used, **the** licensee shall provide models that are protected by safety devices ~~which that~~ will not allow a child's fingers to come in contact with the blade ~~or heating element~~ **and shall bear the safety certification of a recognized testing laboratory.**

(c) **The** caregiver shall keep poisonous or hazardous materials that would harm children, including, but not limited to, **the following in areas inaccessible to children:**

- (1) Cleaning supplies.
- (2) Detergents.
- (3) Insect sprays. ~~and~~
- ~~(4) medication;~~
- (4) Drugs.**
- (5) Household paint and other renovation chemicals.**
- (6) Lawn care products.**
- (7) Plants.**

~~in areas inaccessible to children.~~

(d) **The** caregiver shall store implements and tools, including, but not limited to, **the following in areas inaccessible**

to children:

- (1) Power tools.
- (2) Hand tools. ~~and~~
- (3) Gardening tools.

~~in areas inaccessible to children.~~

(e) When children are present in the child care home, **the** caregiver shall keep all ammunition and firearms in a locked area that is inaccessible to children at all times.

(f) If space heaters are used, they shall:

- (1) be inaccessible to children and be stable;**
- (2) have protective covering to keep hands and objects away from the source of heat;**
- (3) bear the safety certification of a recognized testing laboratory;**
- (4) be placed three (3) feet from curtains and all other flammable objects; and**
- (5) be properly vented so as not to introduce fumes into the child care area.**

(Division of Family and Children; 470 IAC 3-1.1-48; filed Nov 14, 1991, 1:00 p.m.: 15 IR 503; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3071; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 47. 470 IAC 3-1.1-50 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-50 School age child care services

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 50. (a) Activities that meet the developmental needs of school age children shall be provided, including the following:

- (1) Indoor and outdoor play.**
- (2) Opportunity for study in a quiet area.**
- (3) Age-appropriate toys, books, and games, in good repair.**

(b) The parent, school, and caregiver shall establish and agree in writing as to areas of responsibility, including, but not limited to, the following:

- (1) Child's departure times to and from school.**
- (2) Transportation arrangements.**
- (3) Participation in before and after school activities.**

(Division of Family and Children; 470 IAC 3-1.1-50)

SECTION 48. 470 IAC 3-1.1-51 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.1-51 Extended hours

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 51. (a) Any facility operating more than twelve (12) hours must meet all the requirements of this rule and must have prior approval from the division.

(b) Caregivers counted in the child to staff ratios shall be awake and alert at all times. *(Division of Family and Children; 470 IAC 3-1.1-51)*

SECTION 49. 470 IAC 3-1.2-2 IS AMENDED TO READ AS FOLLOWS:

Rule 1.2. Infant and Toddler Services

470 IAC 3-1.2-2 "Full-sized crib" defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 2. As used in this rule, “full-sized crib” means a child’s bed ~~which that~~ has an interior dimension greater than ~~fifty-two and three-eighths (52 3/8)~~ **fifty-one and three-fourths (51 3/4)** inches ~~plus or minus five-eighths (5/8) inch~~ in length and ~~twenty-eight (28)~~ **twenty-seven and three-eighths (27 3/8)** inches ~~plus or minus five-eighths (5/8) inch~~ in width. With the mattress support in its lowest position and the crib side in its highest position, the vertical distance from the upper surface of the mattress support to the upper surface of the crib side or end panel shall not be less than twenty-six (26) inches. (*Division of Family and Children; 470 IAC 3-1.2-2; filed Nov 14, 1991, 1:00 p.m.: 15 IR 504; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 50. 470 IAC 3-1.2-3 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.2-3 “Portacrib” defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 3. As used in this rule, “portacrib” means a child’s portable bed ~~which that~~ has an interior dimension smaller than ~~forty-nine and three-fourths (49 3/4)~~ **fifty and three-eighths (50 3/8)** inches ~~plus or minus five-eighths (5/8) inch~~ in length but not less than thirty-six (36) inches in length, and ~~twenty-five and three-eighths (25 3/8)~~ **smaller than twenty-six** inches ~~plus or minus five-eighths (5/8) inch~~ in width but not less than twenty-four (24) inches in width. With the mattress support in its lowest position, the vertical distance from the upper surface of the mattress support to the upper surface of the crib side or end panel shall not be less than twenty-two (22) inches. (*Division of Family and Children; 470 IAC 3-1.2-3; filed Nov 14, 1991, 1:00 p.m.: 15 IR 504; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235*)

SECTION 51. 470 IAC 3-1.2-3.2 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.2-3.2 Cribs

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 3.2. (a) All cribs shall meet the following guidelines:

- (1) Cribs shall be of sturdy construction.**
- (2) There shall be no corner posts higher than one-sixteenth ($1/16$) inch.**
- (3) There shall be no cutouts in the headboard.**
- (4) Spaces between the bars of the crib and between the bars and the end panels of the crib shall not exceed two and three-eighths ($2\frac{3}{8}$) inches.**
- (5) Each crib shall have a firm mattress at least two (2) inches thick that is securely covered with a waterproof material not dangerous to children.**
- (6) The gap between the mattress and the interior perimeter of the crib shall not exceed one (1) inch.**
- (7) Drop-side latches shall be safe and securely hold the sides in the raised position.**
- (8) Latches shall not be reachable by a child in a crib.**

(b) Tiered or stacked cribs are prohibited. (*Division of Family and Children; 470 IAC 3-1.2-3.2*)

SECTION 52. 470 IAC 3-1.2-4 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.2-4 Activities for healthy development

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 4. (a) The caregiver shall have stairways guarded by a gate or closed door **unless a required exit is blocked.**

(b) After discussion with the parent or legal guardian of each infant or toddler in care, **the** caregiver shall:

(1) establish flexible routines for:

- (A) naps;
- (B) feedings;
- (C) diapering; and
- (D) toilet training;

(2) provide opportunities for play and exploration of the environment; and

(3) periodically change the available toys and the place and position of infants not yet able to ~~move about~~ **change their location or position** on their own.

(Division of Family and Children; 470 IAC 3-1.2-4; filed Nov 14, 1991, 1:00 p.m.: 15 IR 504; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3072; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3472; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

SECTION 53. 470 IAC 3-1.2-5 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.2-5 Naps

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 5. (a) **The** licensee shall provide a separate crib, portacrib, or playpen in which each **nonwalking** infant or toddler can sleep. Each crib, portacrib, or playpen shall be equipped with a firm-fitting mattress or pad made of waterproof materials. A parent or legal guardian may provide or approve the use of a bassinet for an infant and is responsible along with the caregiver to monitor its use closely. (Manufacturers of bassinets indicate that a bassinet should no longer be used once an infant begins moving and turning unassisted.)

(b) The licensee may use washable cots, sleeping bags, or mats for **walking infants and** toddlers. ~~over twenty-four (24) months of age:~~

(c) **Infants under twelve (12) months of age shall be placed on their backs to sleep unless the infant's physician indicates otherwise. A firm mattress, mat, or pad manufactured in the United States as infant sleeping equipment shall be used for sleep. The mattress shall be tightly fitted in the crib. There shall be no:**

- (1) pillows;
- (2) quilts;
- (3) comforters;
- (4) sheepskins;
- (5) stuffed toys; or
- (6) other soft products;

in the crib. If a light blanket is used, it shall be securely tucked in at the foot of the crib and reach only as far as the infant's chest. *(Division of Family and Children; 470 IAC 3-1.2-5; filed Nov 14, 1991, 1:00 p.m.: 15 IR 504; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3072; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3472; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 54. 470 IAC 3-1.2-6 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.2-6 Diaper changing and toilet training

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 6. (a) The licensee shall provide an area for diaper changing with a washable surface on which the infant or toddler may be placed. The diaper changing surface must have waterproof material between the child and the surface of the changing area. This material shall be changed after each use. The diaper changing area shall be sanitized ~~daily~~ **and when soiled: cleaned after each use.**

~~(b) Licensee shall supply a covered container for wet or soiled diapers:~~

~~(e) Direct~~ **(b) All child care providers changing diapers shall wash their hands with soap and running water immediately after each diaper change.**

~~(d) (c) When a chair designed specifically for toilet training is used, direct the child care provider shall empty it after each use and sanitize it at least daily. after each use.~~

(d) The diaper changing area shall not be located in the kitchen.

(e) Diapers shall be kept in a covered container that cannot be opened by children. *(Division of Family and Children; 470 IAC 3-1.2-6; filed Nov 14, 1991, 1:00 p.m.: 15 IR 505; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3072; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 55. 470 IAC 3-1.2-7 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.2-7 Feeding

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 7. (a) ~~Direct~~ Child care providers shall feed infants and toddlers according to their dietary needs and shall hold infants during bottle feedings until they demonstrate ~~their the~~ ability to hold their own bottles.

(b) If more than one (1) infant or toddler in care is bottle fed, all bottles shall be labeled with the child's name.

(c) ~~Direct~~ Child care providers shall not prop ~~feeding~~ bottles. *(Division of Family and Children; 470 IAC 3-1.2-7; filed Nov 14, 1991, 1:00 p.m.: 15 IR 505; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3073; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 56. 470 IAC 3-1.2-8 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.2-8 Sanitizing

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 8. All frequently touched toys in rooms in which infants and toddlers are cared for shall be cleaned and sanitized daily. *(Division of Family and Children; 470 IAC 3-1.2-8)*

SECTION 57. 470 IAC 3-1.3-1 IS AMENDED TO READ AS FOLLOWS:

470 IAC 3-1.3-1 Class II child care home services

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 1. A ~~Class H licensee who provides child care home serves services for~~ more than twelve (12) children but not more than sixteen (16) full-time and part-time children ~~at any one (1) time. A licensee who provides Class H child care~~ shall meet all the requirements of 470 IAC 3-1.1 and 470 IAC 3-1.2 as well as the requirements of this rule. ~~If there is any difference in requirements, the specific information contained in IC 12-17.2-5-6.5 shall prevail.~~ *(Division of Family and Children; 470 IAC 3-1.3-1; filed Sep 27, 1996, 12:35 p.m.: 20 IR 322; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

SECTION 58. 470 IAC 3-1.3-2 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.3-2 "Class II child care home" defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 2. (a) As used in this rule, “class II child care home” means a child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time.

(b) A child:

(1) for whom a provider of care in the child care home is a:

(A) parent;

(B) stepparent;

(C) guardian;

(D) custodian; or

(E) other relative; and

(2) who is at least seven (7) years of age;

shall not be counted in determining whether the class II child care home is within the limit set forth in subsection

(a). *(Division of Family and Children; 470 IAC 3-1.3-2)*

SECTION 59. 470 IAC 3-1.3-3 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.3-3 Application for class II child care home license

Authority: IC 12-13-5-3

Affected: IC 12-17.2-5

Sec. 3. An applicant for a class II child care home license shall do the following:

(1) Attend orientation training provided or approved by the CDFC if a training has not been attended in the last twelve (12) months.

(2) Comply with application procedures as required by this rule.

(3) Submit to the CDFC child care home licensing consultant a completed, signed application for a class II child care home license.

(4) Provide documentation of the following:

(A) A high school diploma or general equivalency diploma (GED).

(B) One (1) year of experience in a licensed child care home or child care center.

(C) All attachments as required by 470 IAC 3-1.1-28.

(D) Original results of a national criminal history check for each applicant.

(E) Results of a five (5) panel drug test signed by a medical review officer for each household member eighteen (18) years of age or older and all caregivers.

(5) A notarized statement from a design professional on forms provided by the CDFC that the class II child care home is in compliance with the requirements contained in IC 12-17.2-5.

(Division of Family and Children; 470 IAC 3-1.3-3)

SECTION 60. 470 IAC 3-1.3-4 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.3-4 Personnel requirements

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 4. (a) Two (2) caregivers, one (1) at least twenty-one (21) years of age or older, must be on the premises at all times and responsible for the class II child care home.

(b) If the licensee is not the caregiver, the licensee shall ensure that a caregiver is on the premises and is responsible for the direct care, protection, and supervision of children in the class II child care home. *(Division of Family and Children; 470 IAC 3-1.3-4)*

SECTION 61. 470 IAC 3-1.3-5 IS ADDED TO READ AS FOLLOWS

470 IAC 3-1.3-5 Staff orientation, training, and development

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 5. Caregivers shall complete at least twelve (12) clock hours annually of staff development activities that shall consist of inservice training, workshops, conferences, or college courses closely related to group care of children. Recommended topics include the following:

- (1) Child growth and development.
- (2) Child care programming and activities.
- (3) Health and safety practices (first aid and CPR cannot be counted for more than six (6) hours of inservice training).
- (4) Inclusion of children with special needs.
- (5) Nutrition and eating habits.
- (6) Parent communication.
- (7) Use of physical space.

(Division of Family and Children; 470 IAC 3-1.3-5)

SECTION 62. 470 IAC 3-1.3-6 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.3-6 Class II child care home capacity

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 6. The maximum capacity of the class II child care home shall be determined by using the following information:

- (1) A minimum of thirty-five (35) square feet of usable space per child, exclusive of:

- (A) bathrooms;
- (B) storage areas;
- (C) food preparation areas;
- (D) hallways; and
- (E) any rooms that children are prohibited.

The home's indoor premises shall contain adequate space for child play and developmentally appropriate activities for the number and ages of children served.

- (2) Sufficient food preparation surfaces in the kitchen and a:

- (A) sink with hot and cold running water;
- (B) full-size refrigerator; and
- (C) full-size stove and oven;

in operating condition.

(Division of Family and Children; 470 IAC 3-1.3-6)

SECTION 63. 470 IAC 3-1.3-7 IS ADDED TO READ AS FOLLOWS:

470 IAC 3-1.3-7 Fire prevention and safety

Authority: IC 12-13-5-3

Affected: IC 12-17.2-5-6.5

Sec. 7. (a) Prior to beginning operation as a class II child care home, the applicant shall secure the services of a design professional and shall submit with the application for a class II child care home a notarized statement from the design professional that the class II child care home is in compliance with IC 12-17.2-5-6.5 and the following items:

- (1) Each home that has child care provided on the first story is required to have two (2) exits on that story. These exits must be separated from each other by a distance that is equal to not less than one-half ($\frac{1}{2}$) the largest dimension of that story.
- (2) All areas used for child care must be located not more than seventy-five (75) feet from an approved exit.
- (3) The exit may pass through only one (1) intervening room provided it does not pass through a:

- (A) kitchen;
- (B) bathroom;
- (C) closet;
- (D) storage area; or
- (E) any room where hazardous materials are stored.

If the only exit from a room is through an allowed room, there must be smoke detectors in both rooms. Detectors must be audible throughout the home.

(4) At least one (1) of the approved exit doors shall be a minimum of thirty-six (36) inches wide and six (6) feet eight (8) inches high.

(5) Exit doors for approved exits shall be either pivoted or swing-hinged doors. Revolving or overhead doors are not acceptable exits. Only one (1) of the required exits on each floor may be a sliding glass door.

(6) All exit doors must be unlocked and must be operable from the inside without the use of a key or any special knowledge or effort.

(7) There shall be a floor or landing on each side of an exit door. The floor or landing shall not be more than one-fourth ($\frac{1}{4}$) inch lower than the threshold of the door. The landing must be:

- (A) level;
- (B) at least the width of the door; and
- (C) at least forty-four (44) inches in length.

(8) An illuminated exit sign and emergency lighting with battery backup is required for each approved exit door. The exit sign shall meet the following specifications:

- (A) Internally or externally illuminated by two (2) electric lamps. Current supply to one (1) of the lamps shall be provided by the premises wiring system. Power to the other lamp shall be from storage batteries.
- (B) Words shall be in block letters six (6) inches high with a letter width of not less than three-fourths ($\frac{3}{4}$) of an inch.
- (C) Placed above approved exit doors.

(9) Provide all child care services on the first story of the child care home unless the class II child care home meets all of the following conditions:

- (A) Entire home is equipped with an automatic sprinkler system throughout.
- (B) There are at least two (2) exits directly to the exterior of the home for the sole use of the occupants of the second story.
- (C) No children under twenty-four (24) months of age are on the second story.

(10) Smoke detectors shall be hard wired to the home's electrical system and wired in such a manner that activates all of the smoke detectors in the home when any one (1) detector is activated.

(11) Smoke detectors shall be installed according to the manufacturer's installation guidelines.

(12) A two and one-half ($2\frac{1}{2}$) pound or greater ABC multiple purpose fire extinguisher is required in each room used for child care.

(b) The caregiver shall immediately report any fire or smoke condition to the local fire department. The division of family and children shall be advised of the location and circumstances of the fire or smoke condition within twenty-four (24) hours.

(c) In the event that two (2) licensed class II child care homes are contiguously located within the same residential structure, each licensed facility shall be separated by a two (2) hour fire occupancy wall between each licensed facility. Such wall shall comply with applicable provisions of the Indiana uniform building code in effect at the time of application for licensure. The applicant shall provide certification by a design professional that the fire-resistive wall has been constructed in compliance with the rules of the fire prevention and building safety commission. If there is a door between the two (2) homes, it must be a one and one-half ($1\frac{1}{2}$) hour fire-rated door. (*Division of Family and Children; 470 IAC 3-1.3-7*)

SECTION 64. THE FOLLOWING ARE REPEALED: 470 IAC 3-1.1-9; 470 IAC 3-1.1-32.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 23, 2004 at 6:00 p.m., at the Indiana Government Center-

*South, 402 West Washington Street, Conference Center Auditorium, Indianapolis, Indiana; **AND** on June 24, 2004 at 6:00 p.m., at the Fort Wayne Development Center, 4900 Saint Joe Road, Fort Wayne, Indiana; **AND** on June 29, 2004 at 6:00 p.m., at the Office of Family and Children Regional Training Center, 604 Quail Run Road, Vincennes, Indiana; **AND** on June 30, 2004 at 5:45 p.m., at the Gary Public Library, 220 West 5th Avenue, Gary, Indiana; **AND** on July 1, 2004 at 6:00 p.m., at the Jeffersonville High School Cafeteria, 2315 Allison Lane, Jeffersonville, Indiana the Division of Family and Children will hold a public hearing on proposed amendments to revise, update, clarify, and add miscellaneous provisions to the rules that govern child care homes. Written comments will be accepted through July 16, 2004, and may be directed to the DFC, Bureau of Child Development, Attention: Debbie Sampson, 402 West Washington Street, Room W386, MS 02, Indianapolis, Indiana 46204. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W386 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Stephen E. DeMougin
Director
Division of Family and Children