

Haw. Admin. Rules (HAR) T. 17, Subt. 6, Ch. 891.1, Refs & Annos

Haw. Admin. Rules (HAR) § 17-891.1-1

§ 17-891.1-1. Definitions.

For the purpose of this chapter:

“After school care” means child care provided after the close of the regular school day during the academic year and summer for children ages four years and eight months and older who are enrolled in public or private elementary schools.

“Applicant” means the person who is applying for registration of their family child care home and includes this person’s spouse.

“Before school care” means child care provided before the opening of the regular school day during the academic year for children ages four years and eight months and older who are enrolled in public or private elementary schools.

“Caregiver” or “provider” means any person who is responsible for the physical well-being, health, safety, supervision, and guidance of children in child care.

“Certificate of Registration” or “regular certificate of registration” means a certificate of approval issued by the state department of human services authorizing the operation of a family child care facility.

“Child” means any person who has not reached the age of eighteen.

“Child care” means those situations where a person or organization has agreed to assume the responsibility for the child’s supervision, development, safety, and protection apart from the parent or guardian for any part of a twenty-four hour day.

“Child care center (CCC)” or “group child care center (GCCC)” means a place maintained by any individual, organization, or agency for the purpose of providing child care. The term child care center shall include child care nurseries, nursery school groups, preschools, child play groups, parent cooperatives, drop in child care centers, group child care homes, or other similar units operating under any name.

“Child development associate (CDA)” means any person credentialed by the council for early childhood professional recognition (national association for the education of young children) to assume primary responsibility for a group of young children in a developmental early childhood program.

“Compliance” means conformity in fulfilling formal or official requirements of this chapter.

“Council for early childhood professional recognition (national association for the education of young children)” means the agency contracted by the U.S. Department of Health and Human Services to grant the child development associate (CDA) credential.

“County building code” means the building code used by the applicable counties.

“Demonstration project” means any place providing child care which is operating with special approval of the department for exemptions to specific registration rules.

“Drop in care” means child care where children are permitted to arrive and leave at irregular, non-scheduled times

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during the facility's operating hours.

"Drop in child care center" means a facility which accepts children for drop in care.

"Emergency" means an unforeseen combination of circumstances which calls for immediate action.

"Facility" means all the physical parts belonging to, or which are a part of, a place in which child care is provided including enclosed areas, lanais, and outdoor areas.

"Family child care home (FCCH)" or "family child care (FCC)" means child care in any private home maintained by an individual which provides care to three and no more than six children at the same time during any part of a twenty-four hour day, and where the relationship of child and family child care provider is not by blood, marriage, or adoption.

"Group child care home (GCCH)" means child care provided by any individual in a facility that may be an extended or modified family child care home which provides care to no more than twelve children at the same time during any part of a twenty-four hour day. Group child care homes are licensed under the rules for group child care centers.

"First aid kit" means the materials and equipment in one location in a suitable container for meeting medical emergencies. A first aid kit shall be of the type approved by the American red cross, American medical society, or the state department of health.

"Form 14" means a printed form made available by the state department of health or the state department of education to record a child's immunizations and health record.

"Guardian" means a person other than a child's parents who has legal authority over and responsibility for a child.

"Handicapped child" means a child who is medically determined blind; deaf, mentally retarded, emotionally disturbed, orthopedically, or otherwise chronically handicapped.

"Ill" or "illness" is a subjective term which shall be defined by each provider with regard to admitting or not admitting sick children to child care.

"Infant" means a child who is a newborn up to age one (through the twelfth month).

"Lavatory" means a vessel or basin for washing which is in conformity with plumbing codes in force in the state.

"License" means a certificate of approval issued by the state department of human services authorizing the operation of a group child care center or group child care home.

"Local sanitary codes" means the specific rules set up by a county, the state department of health, or a comparable federal agency, which govern aspects of health and safety.

"Minor deficiencies" means deficiencies which do not involve risk to life, health, or safety of the children enrolled at the child care center.

"New hire" means a person seeking to be a family child care home provider for the first time in the state of Hawaii, either as an applicant or prospective employee of a family child care home.

"Night care" means child care provided to children who stay at night or overnight at a group child care center, group child care home, or family child care home. Care shall not be provided for twenty-four consecutive hours.

"Panic hardware" means a standard device on doors which permit quick and safe exits upon emergencies (e.g. push bars and plates).

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“Policy” means a principal plan for the management of a child care facility.

“Provider”--see caregiver.

“Provisional license” or “provisional certificate of registration” or “temporary permit” means a temporary license or certificate of registration issued at the discretion of the department for a period of six months to any child care facility which is unable to conform to all the rules at the time the license or certificate of registration is issued.

“Qualified nutrition consultant” means a dietitian or nutritionist who meets the advanced educational requirements for membership in the American Dietetic Association and is eligible for registration; or one who has a master’s degree in public health nutrition or nutritional sciences.

“Rehire” means an applicant or prospective employee of a family child care home who is seeking to operate or be employed in a family child care home following termination of employment of more than six months and who has been out of state during this break in employment.

“Rules” means the rules developed by the department of human services to set minimum standards of care and safety for the protection of children in child care.

“Single service utensils” means the supplies or equipment used once to serve food (e.g. paper plates, cups, disposable forks).

“State child care advisory committee” means a group of people appointed by the department of human services to advise the department on matters regarding child care, including child care rules.

“Substitute” means a person who serves as a replacement when another caregiver is absent.

“Supervision” means the act of being within sight or hearing distance of the children to insure the safety and protection of the children.

“Temporary permit”--see provisional license.

“USDA child care food program” means the food standards established by the United States Department of Agriculture.

“Volunteer” means a person offering services to a child care facility without remuneration, except for reimbursable personal expenses allowed by the caregivers

Haw. Admin. Rules (HAR) § 17-891.1-2

§ 17-891.1-2. Application.

(a) A completed family child care home application shall include the following:

(1) A signed department application form;

(2) Evidence of a satisfactory physical examination and TB clearance for all household members;

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(3) Two letters of reference, as specified in § 17-891.1-17(c);

(4) Completed employment history clearance forms; and

(5) Results of the child abuse/neglect history check and criminal history check as indicated in sections (A) and (B) below.

(A) Applicants, their adult household members, and prospective employees shall provide criminal history records, child abuse/neglect history, employment information, and consent to conduct such checks as may be required by state or federal law. Such information and consent shall be given upon forms supplied by the department.

(B) The department shall conduct criminal history, employment history and child abuse/neglect checks on all applicants, their adult household members, and prospective employees; applicants shall conduct employment history checks on all prospective employees.

(b) The date of application shall be the date a signed application form and all required information and documentation are received by the department.

(c) Notification of the disposition of the completed application for certificate of approval shall be issued no later than ninety days from the date the completed application as defined in section 17-891.1-2(a) is received.

(d) If the department fails to issue a notification of the disposition of the application within ninety days, the application shall be deemed approved and a license shall be issued.

Haw. Admin. Rules (HAR) § 17-891.1-3

§ 17-891.1-3. Inspection and issuance of certificate of registration.

(a) In exercising its authority to register family child care homes or renew, suspend, or revoke the certificate of registration, the department shall analyze the qualifications of providers of child care, review the home's written policies and program provisions, and inspect the home. Authorized representatives of the department and parents or guardians of children in care may visit a family child care home at any time during the hours of child care operation for purposes of observing, monitoring and inspecting the facilities, activities, staffing, and other aspects of the child care home. The department may call on political subdivisions and governmental agencies for appropriate assistance within the agencies' authorized fields.

(b) The applicant or registrant shall cooperate with the department by providing access to its facilities, records, and staff. Failure to comply with reasonable requests may constitute grounds for denial, suspension, or revocation of the certificate of registration.

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(c) The registrant shall ensure that new employees, rehires, and all adult household members comply with section 17-891.1-2(a) as applicable.

(1) New employees and rehires shall be fingerprinted not later than five working days of employment.

(2) When the applicant, employee, or adult household member has left the state for a period of six consecutive months or more, they shall be fingerprinted again within five working days from the date that child care is in operation or the date the applicant or employee resumes employment, as applicable.

(d) The applicants, employees, and adult household members shall provide consent to the department to conduct a state name check and a child abuse/neglect history check not later than five working days of the employment anniversary date or the anniversary date of the last consent to a state name check.

(e) The department shall request the applicant or registrant to terminate the employment of an employee who has a criminal history, employment history, or child abuse/neglect history which poses a risk to children in care. Any such request shall be in writing and shall state those criminal convictions, employment history, or child abuse/neglect history which indicates a risk to children. The standard to be applied in disqualification of an applicant, adult household member, or an employee based on these checks shall be:

(1) Except as stated in section (B) below, felony convictions of any offenses against the person as provided in Hawaii Revised Statutes Chapter 707 shall result in immediate disqualification.

(A) These offenses include, but are not limited to:

(i) murder in the first and second degree;

(ii) manslaughter;

(iii) negligent homicide in the first and second degree;

(iv) negligent injury in the first degree;

(v) assault in the first degree;

(vi) reckless endangering in the first degree;

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(vii) terroristic threatening in the first degree;

(viii) kidnapping;

(ix) unlawful imprisonment in the first degree;

(x) custodial interference in the first degree;

(xi) sexual assault in the first, second, and third degree;

(xii) incest;

(xiii) promoting child abuse in the first and second degree;

(xiv) extortion in the first and second degree; and

(xv) extortion when a firearm, explosive, or any dangerous weapon is immediately available and is physically used as part of the threat.

(B) In the case of second degree assault convictions, immediate disqualification shall occur for only those convictions that were within the last five years from the date of the most recent criminal history record check.

(2) Felony conviction of an offense against property rights as provided in Hawaii Revised Statutes chapter 708 shall result in immediate disqualification when the crime leading to the conviction involved use of a weapon, threatened harm, and/or violence to achieve that crime, and the conviction was within the last five years from the date of the most recent criminal history record check. These offenses include, but are not limited to:

(A) burglary in the first degree;

(B) criminal property damage in the first degree; and

(C) robbery in the first and second degree.

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(3) Conviction of an offense against the family as provided in Hawaii Revised Statutes chapter 709 shall result in immediate disqualification when the conviction was within the last five years from the date of the most recent criminal history record check. These offenses include, but are not limited to:

- (A) concealing the corpse of an infant;
- (B) abandonment of a child;
- (C) endangering the welfare of a minor in the first and second degree;
- (D) compensation by an adult of juveniles for crimes;
- (E) endangering the welfare of an incompetent person; and
- (F) abuse of a family or household member.

(4) Conviction of an offense against public health and morals as provided in Hawaii Revised Statutes chapter 712 shall result in immediate disqualification when the conviction was within the last five years from the date of the most recent criminal history record check. These offenses include, but are not limited to:

- (A) promoting prostitution in the first, second, and third degree;
- (B) loitering for the purpose of engaging in or advancing prostitution;
- (C) displaying indecent matter;
- (D) promoting pornography;
- (E) promoting pornography for minors;

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(F) open lewdness;

(G) promoting a dangerous drug in the first, second, and third degree;

(H) promoting a harmful drug in the first, second, third and fourth degree;

(I) promoting a detrimental drug in the first, second, and third degree;

(J) commercial promotion of marijuana in the first and second degree;

(K) promoting a controlled substance in, on, or near schools or school vehicles;

(L) promoting intoxicating compounds; and

(M) promoting intoxicating liquor to a minor.

(5) Confirmation by the department that the applicant, adult household member, or the employee was the perpetrator of abuse or neglect shall result in immediate disqualification.

(6) Confirmation by the department that the applicant, adult household member, or the employee was the perpetrator of threatened harm shall result in immediate disqualification for a five-year period starting from the date that the child abuse case record was closed. An applicant may request, at the discretion of the licensing social worker, that the case be presented to a panel constituted by the department which shall make a final decision of whether the confirmed threatened harm warrants immediate disqualification or an exception should be granted.

(7) For any other situations that have not been listed in this section the department may disqualify an applicant or employee after assessing whether the caregiver poses a risk to the health, safety, or well-being of the children in care. When making an assessment, the criteria to be used shall include, but not be limited to, the following:

(A) The nature of the incident;

(B) When the incident occurred;

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(C) Patterns of behavior which are considered reckless or negligent and resulted in or could have resulted in injury to the person and/or others; and

(D) Evidence of rehabilitation.

(f) When the applicant does not terminate the employment of the employee when requested under this section, the applicant shall notify the department not later than seven working days of receipt of the request. The notification shall be in writing and shall state the reasons for the decision.

(g) Refusal to terminate the employment of an employee when requested under this section shall be grounds for revocation or suspension of a certificate of registration.

(h) Rules prescribed in this chapter are minimum standards. The department shall issue a certificate of registration under the following conditions:

(1) A regular certificate of registration shall be issued if the result of the department's evaluation indicates compliance with the applicable rules as established by the department; or

(2) A provisional certificate of registration shall be issued if the result of the department's evaluation indicates that all of the applicable rules cannot be met immediately but shall be met within six months or less, and the deviations are minor deficiencies.

(i) The length of the registration period shall be as follows:

(1) Regular certificates of registration shall be valid for one year for new applicants and those providers licensed for less than four years, and for two years for all other providers unless subsequently suspended or revoked. When a regular certificate of registration is issued after a provisional certificate of registration, the expiration date of the regular certificate of registration shall be one year or two years from the issuance date of the last provisional certificate of registration;

(2) Provisional certificates of registration may be issued for up to six months; and

(3) Certificates of registration shall be renewed only upon application and upon the department's approval.

(j) Each certificate of registration shall clearly state the kind of program the registrant is permitted to operate, the address of the registrant, and the number and types of children who can be cared for at the facility.

(k) Implementation of two year licenses shall be accomplished by dividing a unit's caseload so that one-half of the cases fall on the even year and one-half of the cases fall on the odd years. To accomplish this, licenses one-year in

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length shall be issued, if necessary, to achieve an even caseload between the two years. This decision shall be within the discretion of the department.

Haw. Admin. Rules (HAR) § 17-891.1-3.01

§ 17-891.1-3.01. Fines.

(a) The operation of a child care facility without a license is a violation and shall be punishable by a fine not to exceed the maximum amount allowable under the law.

(b) The following offenses may be punishable by a fine, not to exceed the maximum amount allowable under the law, and may also be subject to the denial, suspension or revocation of a license:

(1) Caring for more children than allowed by the family child care home's license;

(2) Violation of the staff-child ratios;

(3) Failure to comply with timely request for criminal history records check;

(4) Allowing conditions to exist which constitute an imminent danger to the health, welfare, or safety of the children in care; or

(5) Injuries to children due to the applicant's negligence.

Haw. Admin. Rules (HAR) § 17-891.1-4

§ 17-891.1-4. Denial, suspension, revocation of certificate of registration, and hearings.

(a) The conditions for denial, suspension, or revocation of a certificate of registration and the action to be taken by the department are as follows:

(1) The department shall deny, suspend, or revoke a regular or provisional certificate of registration if an applicant or registrant does not comply with the rules of the department respecting child care facilities;

(2) The department shall suspend the registration if the violation of the minimum requirement is the first violation of the provider and does not warrant revocation.

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(3) The department shall revoke the registration if the provider has violated any minimum requirement to such an extent or of a nature that the provider is unfit to be trusted with the care of children, or if the provider's registration has been suspended at least once previously.

(4) An applicant or registrant whose certificate of registration is about to be denied, suspended, or revoked shall be given written notice by certified or registered mail addressed to the location shown on the certificate of registration or application;

(5) The notice shall contain a statement of the reasons for the proposed action and shall inform the applicant or registrant of the right to appeal the decision to the director of the department in accordance with Hawaii Revised Statute, chapter 91, not later than ten working days after the mailing of the notice of the proposed action.

(6) Upon receiving a timely written appeal, the director of the department shall give written notice of and an opportunity for a hearing before a hearing officer. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the application or certificate of registration shall be denied, suspended, or revoked; and

(7) If no timely written appeal is made, processing of the application shall end or the certificate of registration shall be suspended or revoked as of the termination of the ten day period.

(b) The immediate suspension of the certificate of registration shall be ordered if conditions exist which constitute an imminent danger to the health, welfare, or safety of the children. These risks include: the existence of a health hazard on the premises, unsafe facility conditions that cannot be immediately abated, or refusal to terminate an employee as specified in section 17-891.1-3. The department shall take the following actions:

(1) Provide the registrant written notice of the order by personal service or by certified or registered mail addressed to the location shown on the certificate of registration;

(2) Provide a statement of the reasons for the suspension in the notice and inform the registrant of the right to petition the department to reconsider the order not later than ten working days after mailing of the notice;

(3) Declare that all operations shall cease as of the date of receipt of the notice, give the registrant reasonable notice upon receiving a written petition, and provide an opportunity for a prompt hearing before a hearing officer with respect to the order of suspension of the certificate of registration. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the order of suspension shall be affirmed or reversed; and

(4) Notify the parent or legal guardian of each child who is provided care in the family child care home of the suspension or revocation.

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(c) At any hearing provided for by this section, the applicant or registrant may be represented by counsel and has the right to call, examine, and cross-examine witnesses. Evidence may be received even though inadmissible under rules of evidence applicable under court procedures. Hearing officer decisions shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to the last known addresses as may be shown in the application, on the certificate of registration, or otherwise.

(d) Filing of a request for fair hearing does not permit the applicant or registrant to continue to care for children under this chapter.

(e) If an applicant or registrant has their regular or provisional certificate of registration revoked, they shall be unable to apply for another license for:

(1) A ninety-day period from the date that the certificate was revoked if the revocation was their first offense;

(2) Up to six months from the date that the certificate was revoked if the revocation was their second offense.

Haw. Admin. Rules (HAR) § 17-891.1-5

§ 17-891.1-5. Number and age of children in care.

A family child care home shall provide care for no more than six children at the same time during any part of a twenty-four hour day. The following provider's children are not included in this total:

(1) Children six years of age or older; and

(2) Children under six years of age who are in school or attending a child care facility, such as a child care center, more than six hours per day.

Haw. Admin. Rules (HAR) § 17-891.1-6

§ 17-891.1-6. Statement of operation policies.

(a) A child care facility shall have written operation policies. Family child care home policies shall include:

(1) Ages of children accepted;

(2) Maximum number of children permitted by certificate of registration;

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(3) Specific hours of day, night, holiday, and vacation operation;

(4) Whether or not meals are served;

(5) Fees and the plan for payment, including fees for different types of child care services and refund policy;

(6) Policy and plan for emergency medical care;

(7) Insurance coverage - provider shall inform parents or guardians in writing of its policy regarding liability insurance; should a facility which has liability insurance coverage cancel or terminate its coverage, the provider shall provide written notice to each parent or guardian of a child in its facility no later than seven working days from the date of the cancellation or termination of coverage.

(8) Transportation arrangements;

(9) Parental permission for trips and related activities outside the facility;

(10) Policy regarding admission of sick, moderately sick, or handicapped children; and

(11) Other policies which may be required by the department.

(b) The policies shall be reviewed by the provider with each parent or guardian at the time of enrollment of a child.

Haw. Admin. Rules (HAR) § 17-891.1-7

§ 17-891.1-7. Information on owner or operator.

(a) The name, address, and telephone number of the facility shall be provided to the department.

(b) The name of any sponsoring agency shall be provided to the department.

Haw. Admin. Rules (HAR) § 17-891.1-8

§ 17-891.1-8. Change in services.

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A facility shall notify parents or guardians and the department of any changes in the child care services it provides. Notification of any changes in service shall be made no later than thirty days before the date of the change, and the changes shall be included in the facility's operating policies.

Haw. Admin. Rules (HAR) § 17-891.1-9

§ 17-891.1-9. Information and records on each child.

(a) Admission procedures shall require that sufficient information and instruction from the parents or guardians be furnished to enable the provider to make decisions or act on behalf of the child.

(b) Prior to admission of a child to a facility, the provider shall obtain the following information from the child's parents or guardians:

(1) The child's full legal name, birth date, current address, and preferred names;

(2) The name and home address of the parents or guardians who are legally responsible for the child;

(3) Telephone numbers or instructions as to how the parents or guardians may be reached during the hours the child is in the facility;

(4) Health information concerning the child, as required by sections 17-891.1-20 and 17-891.1-21.

(c) The information shall be maintained in writing and shall be updated as necessary.

Haw. Admin. Rules (HAR) § 17-891.1-10

§ 17-891.1-10. Disclosure of information on the child.

Information pertaining to an individual child or parents or guardians of the child shall not be disclosed to persons other than the facility personnel unless the parents or guardians of the child grant written permission for the disclosure or an emergency arises.

Haw. Admin. Rules (HAR) § 17-891.1-11

§ 17-891.1-11. Information and records on facility.

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Written information and records on the facility shall be maintained and made available to the department. Current records and information shall include:

- (1) Roster of enrolled children; and
- (2) Daily attendance record by names of children.

Haw. Admin. Rules (HAR) § 17-891.1-12

§ 17-891.1-12. Transportation provisions.

When transportation is provided by a facility, children shall be protected by adequate supervision and safety precautions as follows:

- (1) The vehicle and driver providing transportation shall be in compliance with all relevant motor vehicle laws of the state;
- (2) No more than six children under the age of six years shall be transported when only one adult is in the vehicle;
- (3) Children shall be instructed in safe transportation conduct as appropriate for age and stage of development; and
- (4) All children required by law to be in child safety seats shall be in federally approved child safety seats. All other children and adults shall be secured by seat belts.

Haw. Admin. Rules (HAR) § 17-891.1-13

§ 17-891.1-13. Program provisions.

There shall be a provider or a responsible adult, designated by the provider, supervising the children at all times. The provider or responsible adult shall always be within sight or hearing distance to provide for the needs of the children and to respond to an emergency. The program shall also provide an environment and experiences which are aimed at promoting the individual child's physical, intellectual, emotional, and social well-being and growth. This shall be done in the following ways:

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- (1) Activities which promote physical development shall include:

Current through the Hawaii Administrative Rules Listing of Filings, with amendments received through April 2014.

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(A) Daily opportunities for running, climbing, and other vigorous and varied physical activities; and

(B) Opportunities for children to learn about the health, development, and care of the children's bodies, including exercise, nutrition, and hygiene;

(2) Programs to promote intellectual development shall:

(A) Provide that a variety of learning materials are introduced and are available to the children; and

(B) Include first-hand experiences for children to learn about the world;

(3) Programs to promote emotional development shall provide that:

(A) There are opportunities for individual self-expression;

(B) Each child is recognized as an individual;

(C) The child is afforded constructive guidance and the setting of clear-cut limits which foster the child's own ability to be self-disciplined;

(D) Each child's personal privacy is respected;

(E) Providers shall not use:

(i) Physical punishment, or

(ii) Methods of influencing behavior which are frightening, humiliating, injurious, or damaging to the child's health or self-esteem; and

(F) Providers shall respect each child's cultural, ethnic, and family background, as well as the child's primary language or dialect;

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(4) Programs to promote social development shall provide that:

(A) Children are guided in learning to get along with each other;

(B) Providers interact with children in ways which promote mutual respect between adults and children; and

(C) Providers behave in ways which help the children develop attitudes of respect for all other persons as individuals and develop an appreciation of ethnic and cultural diversity;

(5) The activities and experiences provided by the program shall be appropriate to the developmental level of the children;

(6) The program shall encourage the development of the children's special interests and abilities;

(7) The program shall provide a balance of active and quiet activities; and

(8) The program shall provide for the self-direction of the children by:

(A) Affording children opportunities to choose activities according to personal desires and interests and to move from one activity to another;

(B) Encouraging children to do things independently; and

(C) Providing children opportunities to be involved in decision making about group and individual activities.

Haw. Admin. Rules (HAR) § 17-891.1-14

§ 17-891.1-14. Communication with parents.

Caregivers shall exchange information with parents or guardians about the children as follows:

(1) Plans shall be made and followed for regular contact with parents or guardians to exchange information about each child; and

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(2) Caregivers shall relay concerns about the health, development, or behavior of the child to the parents or guardians promptly and directly.

Haw. Admin. Rules (HAR) § 17-891.1-15

§ 17-891.1-15. Program materials and equipment.

(a) The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be appropriate to the ages of the children in care.

(b) The quantity of materials and equipment shall be sufficient to:

(1) Avoid excessive competition between the children and to avoid long waits for use of the materials and equipment; and

(2) Provide for a variety of experiences and appeal to the individual interests of the children.

(c) Protected areas where equipment and materials will be used with minimal interference or interruption shall be provided.

(d) Materials shall be stored in an orderly way, shall be kept in good repair, and shall be accessible to children. The materials shall be arranged to allow children to select, remove, and replace the materials either independently or with assistance.

(e) Grass, soft media, or other protective measures shall be used under swings, slides, jungle gyms, and other similar outdoor play equipment.

(f) Equipment for both indoor and outdoor play shall allow children to use small and large muscles for imaginative play and creative activities.

(g) Provision for individual storage of children's clothing and personal belongings shall be available.

(h) Storage space for play materials and equipment used by the children shall be made available.

(i) The following sleeping equipment shall be available:

(1) Individual bed, crib, cot, mat, or rug for each child who rests; and

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- (2) A clean sheet or cover to be used on the bed, crib, cot, mat, or rug for each child.

Haw. Admin. Rules (HAR) § 17-891.1-16

§ 17-891.1-16. Transition to a new facility or school setting.

(a) Provision shall be made to assist the child in making the transition from the child care setting to a new child care, a kindergarten, or school setting.

(b) Provision shall be made for cooperation between the caregiver and parents, guardians, or kindergartens when information is requested which may assist a child to adjust to a new environment as allowed by section 17-891.1-10

Haw. Admin. Rules (HAR) § 17-891.1-17

§ 17-891.1-17. Staff training, experience, and personal qualifications.

(a) Each provider shall be qualified through training, experience, and personal qualities for the age group with which the person works.

(b) All providers other than volunteers assisting providers shall be at least eighteen years old.

(c) Written references from two of the following categories of persons shall be submitted to the department with an application:

(1) A neighbor or personal friend;

(2) A person in a professional capacity such as a teacher, doctor, minister, or social worker;

(3) The parent of any child who has previously been in the provider's care, if applicable.

(d) Applicants, employees, and adult household members shall be of reputable and responsible character and shall not have a criminal history record, employment history, or child abuse/neglect history which poses a risk to children in care as specified in Section 17-891.1-3.

(e) To renew a certificate of registration, the provider shall present written evidence attesting to increased knowledge in two or more of the following areas:

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- (1) Physical care of the young child;
- (2) Care of the sick child;
- (3) Foods and nutrition;
- (4) Growth and development;
- (5) Learning activities and play;
- (6) Working with parents;
- (7) Child management;
- (8) Management of a family child care home;
- (9) Infants;
- (10) Handicapped children;
- (11) First aid; or
- (12) Community resources.

Haw. Admin. Rules (HAR) § 17-891.1-18

§ 17-891.1-18. Staff-child ratio.

(a) A family child care home shall provide care for no more than six children at the same time during any part of a twenty-four hour day. The following provider's children are not included in this total:

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- (1) Children six years of age or older; and

 - (2) Children under six years of age who are in school or attending a child care facility, such as a child care center, more than six hours per day.
- (b) No more than two children under eighteen months of age shall be permitted in the family child care home at the same time. Should there be additional adult help in the home, there may be up to four children under eighteen months of age.
- (c) Restrictions as to the number of children permitted shall be made under the following conditions:
- (1) Space is unusually limited;

 - (2) Provider has personal or physical limitations;

 - (3) There is an unusually wide range of ages of the children;

 - (4) There are handicapped children requiring unusual amounts of special care.
- (d) The provider shall provide the department with the name, address, and telephone number of at least two substitutes for the provider, such as another family child care provider, a neighbor, or a hired person, who will be called in an emergency or other times when the regular provider is unable to provide care.

Haw. Admin. Rules (HAR) § 17-891.1-19

§ 17-891.1-19. Health consultation provisions.

The facility shall make provision for health consultation to assist in developing health policies and keeping the policies current. The provider shall contact a local health resource for consultation in setting up and maintaining health standards.

Haw. Admin. Rules (HAR) § 17-891.1-20

§ 17-891.1-20. Evidence of child's health.

- (a) The child care facility shall require and obtain from the parent or guardian of each child entering child care a completed department of education (DOE) form 14 or any comparable writing which shall include the following:

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- (1) Child's record of immunizations;
 - (2) Evidence of the child's good health; and
 - (3) Signature of a physician or health agency, signed within one year prior to admission.
- (b) School aged children in before or after school care only, who satisfy health requirements for enrollment in school, are not required to furnish the material specified in subsection (a) above.

Haw. Admin. Rules (HAR) § 17-891.1-21

§ 17-891.1-21. Emergency care provisions.

(a) Every facility shall have the following provisions for emergency care of children requiring treatment at a hospital or clinic away from the child care setting and for care of children who become ill after arrival:

(1) The provider shall obtain the name of a physician or nearest hospital or clinic where care can be provided to the child;

(2) The provider shall obtain written permission from the parents or guardians to allow the child to receive emergency care;

(3) An adult shall accompany a child to the source of emergency care. The adult shall stay with the child until the parent or parent's designee assumes responsibility for the child's care. The selection of the adult shall not compromise the supervision of the other children in the program; and

(4) Physical arrangements for children who become ill after arrival at the facility shall be available for the care of the child until parents or guardians can be notified to provide alternative arrangements.

Haw. Admin. Rules (HAR) § 17-891.1-22

§ 17-891.1-22. First aid and child cardio-pulmonary resuscitation (CPR).

(a) The first aid requirement shall be as follows:

(1) There shall be at least one adult provider who is trained in observation of symptoms of illness and with a

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current certificate in first aid at all times during the operational day when children are in care.

(2) The provider may be trained through a community health aid program or a program developed or endorsed by the american red cross, state department of health, or nursing or medical agency in the community.

(3) A current first aid certificate means a certificate that has not expired.

(4) A first aid kit shall be available in the child care setting at all times.

(b) The child CPR requirement shall be as follows:

(1) There shall be at least one adult provider who is trained in child CPR at all times during the operational day when children are in care.

(2) The child CPR course must be provided by the american red cross, american heart association, or any organization whose child CPR certification standards are equivalent to the american red cross or american heart association standards.

(3) A current certificate means a certificate that has not expired.

Haw. Admin. Rules (HAR) § 17-891.1-23

§ 17-891.1-23. Admission of ill children.

(a) When health policies of the facility allow ill children to be admitted or to remain in the child care facility, medical consultation shall be available regarding special care and medication.

(b) When medication prescribed by a physician is administered at the facility:

(1) The medication shall be kept in the original container bearing the prescription label which shows a current date, the physician's directions for use, and the child's name; and

(2) Medication shall be kept out of the reach of the children and shall be returned to parents or guardians when no longer in use.

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(c) When over the counter medication is recommended by the child or family's doctor, medication shall be administered at the facility as directed by the doctor or parent or guardian in writing.

(d) Both the provider and the parents or guardians shall be familiar with special policies of the facility relevant to ill children. Special policies regarding illnesses are to be explained to the parent or guardian at the time of enrollment of the child.

Haw. Admin. Rules (HAR) § 17-891.1-24

§ 17-891.1-24. Admission of children with handicaps.

(a) When children with handicaps are admitted into a family child care home, the facility shall provide for the special needs of each child.

(b) The handicapped child shall be admitted only after consultation with the child's source of health care, the parent or guardian, and the provider occurs. The consultation shall include written recommendations from the health care source to cover the child's special needs or to define the child's capacities and limitations.

(c) If the child's health care source considers it advisable, the provider shall receive training related to the nature of the child's disability and the child's potential for growth and development.

(d) Where the nature of the child's handicap or the number of handicapped children in the program necessitates added care, additional adults and equipment shall be available to cover these requirements.

Haw. Admin. Rules (HAR) § 17-891.1-25

§ 17-891.1-25. Daily nutritional needs.

(a) To the extent possible, information provided by parents or guardians concerning the child's eating habits, food preferences, or special needs shall be considered in child care feeding schedules and menus. Children shall be encouraged but shall not be required to eat the food offered at the home.

(b) The home shall have access to nutritional information provided by a qualified nutritionist, dietitian, or other community resource approved by the state department of health.

(c) In a home providing meal service, the minimum meal components and food amounts required by the United States Department of Agriculture (USDA) child care food program shall be met. The home shall offer and provide the following combination of meals and snacks for children in care:

(1) Two to four hours - - -

one snack;

(2) Four to eight hours - - -

one snack or breakfast and lunch or supper;

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- (3) Eight hours or more - - - one snack or breakfast and lunch or supper and one additional snack

(unless the eight hours or more extend into the evening hours when the child may be asleep);

(4) When two snacks are required as in (3) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent; and

(5) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, provider shall consult with the USDA).

(d) In a home where parents or guardians are allowed to provide food (i.e. sack lunches or snacks), the home, in addition to food the child brings, shall meet the minimum amounts required by the USDA child care food program by offering and providing children in care:

- (1) Four to eight hours - - - morning snack or breakfast or afternoon snack;

- (2) Eight hours or more - - - morning snack or breakfast and afternoon snack.

(unless the eight hours or more extend into the evening hours when the child may be asleep);

(3) When two snacks are required as in (2) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent; and

(4) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, facilities shall consult with the USDA).

(e) Children shall not be offered foods to which they are allergic or, for religious reasons, cannot consume. Provision shall be made to secure such information from the parent or guardian, and the parent or guardian of the child shall arrange for nutritious substitute foods.

(f) Infants shall be personally attended while being fed.

- (1) Infants unable to hold bottles shall have bottles held, not propped, by the caregiver.

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(2) Parents or guardians may assume full responsibility for the infants' diet.

(g) School aged children in before or after school care for two or more hours shall be offered a nutritious snack which may be provided by the facility or brought from home.

(h) Food shall not be used as a punishment or reward.

Haw. Admin. Rules (HAR) § 17-891.1-26

§ 17-891.1-26. Drinking water provisions.

Water suitable for drinking shall be accessible to all children.

Haw. Admin. Rules (HAR) § 17-891.1-27

§ 17-891.1-27. Integration of mental health concepts.

Mental health aspects of child development shall be integrated as follows:

(1) The child and at least one parent, guardian, foster parent, or social worker shall be interviewed prior to a child's admission to a family child care home. The personal interview shall be conducted to secure pertinent information on the child's over-all behavior and to acquaint the parent or guardian with the child care home's policies;

(2) The provider shall regularly communicate with the parents or guardians about the child's development; and

(3) The providers shall be aware of community resources, such as children's mental health teams in the state department of health, to help recognize and foster age appropriate behavioral development in children and shall share this information with the parents or guardians.

Haw. Admin. Rules (HAR) § 17-891.1-28

§ 17-891.1-28. Providers' health standards.

Evidence that providers are free from health problems which would have a harmful effect on the children or which would interfere with effective functioning shall be maintained at the family child care home as follows:

(1) The provider shall have a written report of a physical examination given within one year prior to beginning family child care which indicates the provider is in adequate physical health to care for children;

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(2) Any other person living in the home shall have a written report of a physical examination on file which was obtained within one year prior to the provider beginning child care or prior to the person's occupancy in the home. For school aged children, this requirement is fulfilled by meeting the rules for school attendance;

(3) Written evidence that each adult in the home is free from communicable tuberculosis as a result of a negative tuberculin skin test or a satisfactory chest x-ray taken within two years before beginning child care shall be on file at the facility. The tests shall be repeated in compliance with chapter 11-164, Hawaii Administrative Rules; and

(4) When volunteers provide direct child care of ten hours or more per week, the volunteers shall be subject to the same requirements for health and personal habits as the provider.

Haw. Admin. Rules (HAR) § 17-891.1-29

§ 17-891.1-29. Personal health habits of provider.

The personal health habits of all providers shall not interfere with the protection of the health of the children as follows:

(1) The use of medications other than over-the-counter medication is permitted only when authorized by a physician;

(2) The provider shall inform parents or guardians if any member of the household smokes; and

(3) Alcoholic beverages shall be stored out of the reach of children and shall not be consumed during hours of the facility's child care operation.

Haw. Admin. Rules (HAR) § 17-891.1-30

§ 17-891.1-30. Disaster plan for emergencies.

Each facility shall have a disaster plan to cover emergencies such as fire, flood, or natural disaster. The plan shall include:

(1) An exit plan for disasters that is practiced at regular intervals;

(2) Informing parents or guardians of the plans at the time of enrollment; and

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(3) Installing an underwriters laboratory listed fire warning device or system in each stairway or hall in the facility.

Haw. Admin. Rules (HAR) § 17-891.1-31

§ 17-891.1-31. Accidental injury precautions.

The provider shall ensure that the child care program and premises minimize the risk of accidental injury in the following manner:

(1) Ensuring that child care activities and premises do not expose children to situations which may be hazardous to the particular age or capacity of the child; and

(2) Helping increase the children's awareness of safety practices and accident hazards, as appropriate to their age and level of development and helping the children to learn how to avoid such hazards.

Haw. Admin. Rules (HAR) § 17-891.1-32

§ 17-891.1-32. Environmental hazards.

The premises, both indoor and outdoor, in which a child care program is carried out shall be free of environmental hazards, shall be clean and comfortable, and shall provide for adequate space to meet the needs of the children as follows:

pale yellow, blue, and purple

(1) The provider shall control rodents and insects;

(2) The outdoor space shall be fenced or shall have natural barriers or other protective conditions to deter children from getting into unsafe areas;

(3) There shall be no open drainage ditches, wells, or holes into which children may fall;

(4) Drainage shall be adequate to prevent stagnant pools of water from accumulating;

(5) Garbage and trash shall be stored in covered containers out of reach of the children and shall be removed frequently enough to avoid creating a health hazard or nuisance;

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(6) Poisons, drugs, harmful chemicals, and other dangerous articles such as cleaning fluid, matches, firearms, and tools shall be kept in a safe location, out of reach of children;

(7) All rooms used for child care shall be lighted and ventilated;

(8) Open fireplaces shall not be used. Floor heaters and all heating elements including hot water pipes shall be insulated or installed in a manner which makes the pipes inaccessible to children;

(9) Floor space shall be arranged to provide areas for active play, quiet rest, and individual activities;

(10) Furniture, equipment, and toys shall be sturdily constructed, without sharp edges, and shall present minimal hazards to children;

(11) Lead based paint shall not be used on surfaces accessible to children;

(12) Provision shall be made to eliminate the hazard of electrical outlets;

(13) Poisonous plants shall be kept out of the reach of children;

(14) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times; and

(15) If a lodging house, boarding house, or other business conflicts with child care hours and responsibilities, the lodging house, the boarding house, or other business shall not be operated on the premises of the child care home.

Haw. Admin. Rules (HAR) § 17-891.1-33

§ 17-891.1-33. Water supply.

(a) The water supply shall be from a source approved by the health authority and shall be under pressure. The plumbing shall be installed and maintained in a manner approved by local plumbing codes.

(b) If running water is not available, the water shall originate from a source approved by the health authority, shall be transported to the child care setting in clean, sanitized, covered containers, and shall be protected from contamination.

Haw. Admin. Rules (HAR) § 17-891.1-34

§ 17-891.1-34. Toilet and lavatory facilities.

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Toilet and lavatory facilities shall be of a type determined by the availability of water under pressure. Approved facilities, water or non-water carriage, shall be provided for disposal of sewage and other liquid wastes. The following shall apply:

- (1) Where a public sewer is available, all plumbing fixtures and building sewers shall be connected thereto;
- (2) Where a public sewer is not available, a private sewage disposal system of an approved type shall be installed and connected to all plumbing fixtures and building sewers;
- (3) Where water carried sewage disposal means are not available or feasible, sewage and other liquid wastes shall be disposed in an approved manner;
- (4) Where water carried sewage disposal is available, water flush toilets shall be provided. Indoor toilets shall be located in rooms separate from those used for cooking, sleeping, or eating;
- (5) Where water carried sewage disposal is not available, privies shall be used in accordance with local sanitary requirements and shall be designed with step stools or with risers and holes sized to the age group;
- (6) If toilet training chairs are provided for use by children, the toilet training chairs shall be emptied promptly and sanitized after use;
- (7) Lavatories shall be available and small children shall be assisted in washing to prevent accidental scalding;
- (8) Safe, sturdy step stools shall be provided to allow the use of standard sized toilets and lavatories; and
- (9) Children shall not share towels, toothbrushes, combs, and other necessary toilet articles.

Haw. Admin. Rules (HAR) § 17-891.1-35

§ 17-891.1-35. Food preparation and protection.

Food preparation and protection shall be carried out in a kitchen with proper equipment and cleanup facilities required for the number of children in care as follows:

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- (1) All food shall be protected from contamination during storage, preparation, and service; and
- (2) All dishwashing shall be performed in a sanitary manner;
- (3) An adequate number of eating and drinking utensils shall be available for each child;
- (4) When single service utensils are used, the utensils shall be stored and handled in a sanitary manner and discarded after a single use; and
- (5) Cooking utensils used in food preparation and service shall be cleaned and stored in a sanitary manner.
- (6) Food protection policies shall comply with accepted practices of local sanitary codes and shall be adapted to fit the needs of the program except as indicated in these rules.

Haw. Admin. Rules (HAR) § 17-891.1-36

§ 17-891.1-36. Cleaning of premises.

- (a) All necessary cleaning equipment shall be available on the premises and provisions shall be made for regular cleaning of the premises to protect the health of the children and provider.
- (b) Storage of cleaning material shall be in a secured area which is inaccessible to the children.
- (c) There shall be a plan for regular cleaning of toys, table tops, furniture, and other similar equipment used by the children.

Haw. Admin. Rules (HAR) § 17-891.1-37

§ 17-891.1-37. Swimming Activities and wading pools.

- (a) When swimming or wading pools are part of the facility, equipment, or program, the swimming pools shall be constructed, maintained, and operated in accordance with building and health rules.
- (b) When swimming or wading activities are included in the child care program, the following safety practices shall be observed:

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(1) A certified lifeguard, who may be the provider, shall be on duty at all times when swimming pools are in use;

(2) Wading pools less than twenty-four inches at the deepest part shall be exempt from the requirements of section 17-891.1-37(b)(1). However, children shall be personally attended by a responsible adult at all times and the wading pools shall be emptied immediately after each use; and

(3) Legible safety rules for the use of all types of pools, excepting for wading pools, shall be posted in a conspicuous location and read and reviewed at regular intervals by the provider responsible for the care of the children.

Haw. Admin. Rules (HAR) § 17-891.1-38

§ 17-891.1-38. Building codes and space requirements.

(a) Child care facilities shall conform to the zoning, building, electrical, and plumbing codes of the county in which the facility is located, to state rules as may be applicable to the facility, and the following:

(1) The department shall be notified of changes or renovations in the home;

(2) Space requirements shall be as follows:

(A) For daytime care, there shall be a minimum of thirty-five square feet of indoor area per child, excluding bathrooms, closets, and hallways. Covered lanai area may be counted for not more than thirty per cent of the required area;

(B) For nighttime care, each room used for sleeping purposes for children in care shall have a minimum of fifty square feet per child, excluding kitchen, bathroom, closets, hallways, and lanai area; and

(C) For outdoor space, there shall be easy accessibility to adequate outdoor space and in all cases, a minimum of one hundred fifty square feet. For children twelve months or older there shall be minimum of seventy-five square feet per child; and

(3) All parts of the building, building appurtenances, outdoor space, equipment, and all other parts of the facility shall be kept repaired, safe, and sanitary at all times.

Haw. Admin. Rules (HAR) § 17-891.1-39

§ 17-891.1-39. Program modifications for night care.

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A child care facility offering night care shall meet the requirements of this chapter in addition to the following requirements:

- (1) In consultation with parents, special attention shall be given to provide for a transition into night care;
- (2) Toys for quiet activities shall be available;
- (3) Comfortable beds or cots, complete with bedding, and night clothes shall be available or supplied by the parents;
- (4) The provider shall be available to assist children during eating and pre-bedtime hours and during the morning period when dressing. During sleeping hours, the provider shall always be within hearing distance to provide for the needs of children and to respond to an emergency;
- (5) A child shall not sleep in a building detached from the main facility; and
- (6) Night care facilities shall include at least one shower, bathtub, or bathing facility for young children.

Haw. Admin. Rules (HAR) § 17-891.1-40

§ 17-891.1-40. Program modifications for demonstration projects.

- (a) A child care facility may establish a demonstration project for a specific purpose, or set of purposes, upon receiving written approval from the department.
- (b) The child care facility shall submit a written proposal to the department indicating the following:
 - (1) Purpose of the project;
 - (2) Description of the project;
 - (3) Length of the project;

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- (4) Specific child care rules that shall be exempted by the project; and

- (5) Justification for the proposed exemptions.

- (c) The persons responsible for the project or the designated representatives shall appear in person to discuss the proposal with the department or the department's designated representatives if requested by the department.

- (d) A demonstration project which has been approved in writing by the department shall comply with all requirements imposed by the department at the time of its approval as follows:
 - (1) The name or description of the project shall include the words "registered demonstration project";

 - (2) Providers shall be able to show that at all times the demonstration project is in compliance with the child care rules, except as specifically exempted or modified in the department's written approval; and

 - (3) Within the last quarter of the time specified for the demonstration project, a written report shall be submitted to the department which includes:
 - (A) Developments, findings, recommendations, and suggestions for further study; and

 - (B) Any proposed recommendations related to the demonstration project for changing or modifying child care rules with justification therefore.

- (e) Proposed demonstration programs disapproved or discontinued by the department shall not be permitted any further use of the words "registered demonstration project" in the identifying title, logo, or material.