

LSA-R.S. T. 46, Ch. 14, Refs & Annos

Editors' Notes

REVISION

<Chapter 14 of Title 46, formerly entitled "Child Welfare Agencies" and comprised of R.S. 46:1401 to 46:1412, was amended and reenacted by Acts 1985, No. 286, § 1, to consist of R.S. 46:1401 to 46:1424 under the heading "Child Care Facilities and Child Placing Agencies". For disposition of the subject matter of the amended and reenacted sections, see the Disposition Table, post.>

LSA-R.S. T. 46, Ch. 14, Disp Table

Editors' Notes

DISPOSITION TABLE

Showing where the subject matter of the former sections of Chapter 14 of title 46 of the Louisiana Revised Statutes of 1950 appears following the amendment and reenactment of Chapter 14 by Acts 1985, No. 286, § 1.

Former Sections	1985 Reenactment
R.S. 46:1401	R.S. 46:1403
R.S. 46:1402	R.S. 46:1409, 46:1413
R.S. 46:1403	R.S. 46:1404
R.S. 46:1404	R.S. 46:1415
R.S. 46:1405	R.S. 46:1424
R.S. 46:1406	R.S. 46:1421
R.S. 46:1407	R.S. 46:1420
R.S. 46:1408	None
R.S. 46:1409	R.S. 46:1416
R.S. 46:1410	R.S. 46:1410

R.S. 46:1411 None

R.S. 46:1412 R.S. 46:1409, 46:1413

LSA-R.S. 46:1401

§ 1401. Short title

This Chapter may be cited as the “Child Care Facility and Child-Placing Agency Licensing Act.”

LSA-R.S. 46:1402

§ 1402. Legislative intent; declaration of purpose and policy

It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of this Chapter to establish statewide minimum standards for the safety and well-being of children, to insure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to insure protection of all individuals under care in child care facilities and placement agencies and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate. This Chapter shall not give the Department of Health and Hospitals or the Department of Children and Family Services jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any curriculum or instruction of a school or facility sponsored by a church or religious organization so long as the civil and human rights of the clients and residents are not violated.

LSA-R.S. 46:1402.1

§ 1402.1. Licensing; prohibition of conflict of interest

All licenses issued to child care facilities and child-placing facilities pursuant to this Chapter shall specify that the facility shall not enter into any contract or engage in any activities in conflict with its duties to the mothers, fathers, and children that it is licensed to serve.

LSA-R.S. 46:1403

§ 1403. Definitions

Effective: January 1, 2014

A. As used in this Chapter, the following definitions shall apply unless the context clearly states otherwise:

(1) “Camp” means any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group which serves only children five years of age or older and operates only when school is not in

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session during the summer months or school holidays, or both.

(2) “Child” means a person who has not reached age eighteen or otherwise been legally emancipated. The words “child” and “children” are used interchangeably in this Chapter.

(3) “Child day care center” means any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. If a child day care center provides transportation or arranges for transportation to and from the center, either directly or by contract with third parties, all hours during which a child is being transported shall be included in calculating the hours of operation. A child day care center that remains open for more than twelve and one-half hours in a continuous seven-day week, and in which no individual child remains for more than twenty-four hours in one continuous stay shall be known as a full-time child day care center. A child day care center that remains open after 9:00 p.m. shall meet the appropriate regulations established for nighttime care.

(4) “Child-placing agency” means any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing children in foster care or with substitute parents for temporary care or for adoption, or engaged in assisting or facilitating the adoption of children, or engaged in placing youth in transitional placing programs, but shall not mean a person who may occasionally refer children for temporary care.

(5) “Department” means the Department of Children and Family Services.

(6) “Early childhood learning center” means any child day care center, Early Head Start grantee, Head Start grantee, or stand-alone prekindergarten or kindergarten program that is not attached to a school and that is licensed by the state.

(7) “License category” means the category of license applied for or held, which shall include early childhood learning centers, maternity homes, residential homes, and child-placing agencies.

(8) “License type” means the type of license applied for or held, which shall include Type I, Type II, Type III, and Type IV licenses.

(9) “Maternity home” means any place or facility in which any institution, society, agency, corporation, person or persons, or any other group regularly receives and provides necessary services for children before, during, and immediately following birth. This definition shall not include any place or facility which receives and provides services for women who receive maternity care in the home of a relative within the sixth degree of kindred, computed according to civil law, or general or special hospitals in which maternity treatment and care is part of the medical services performed and the care of children only brief and incidental.

(10) “Related” or “relative” means a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

(11) “Residential home” means any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, twenty-four hours per day, for more than four children who are not related to the operators and whose parents or guardians are not residents of the same facility, with or without transfer of custody.

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(12) "School", as referred to in R.S. 46:1415, means any institution or facility which provides for education of children in grades one or above. Any kindergarten or prekindergarten attached thereto shall be considered part of that school.

(13) "Specialized provider" means a child-placing agency, maternity home, or residential home.

(14) "Type I license" means a license held by a child day care center or residential home that is owned or operated by a church or religious organization that does not wish to be licensed as a Type II, Type III, or Type IV center. Nothing herein shall be construed to require a children's religious ministry program operated by a church or other religious organization in accordance with R.S. 46:1429 to be licensed pursuant to this Chapter. "Type I license" also means a license held by a child day care center or residential home holding a Class B license prior to the effective date of this Section.

(15) "Type II license" means the license held by a privately owned child day care center that either receives no state or federal funds from any source, whether directly or indirectly, or whose only source of state or federal funds is the federal food and nutrition program.

(16) "Type III license" means the license held by any publicly or privately owned early childhood learning center which receives state or federal funds, directly or indirectly, from any source other than the federal food and nutrition program. Type III early childhood learning centers shall meet the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness, as determined by the State Board of Elementary and Secondary Education.

(17) "Type IV license" means the license held by any publicly or privately owned specialized provider.

(18) "Youth" means a person not less than sixteen years of age nor older than twenty-one years of age.

B. For purposes of this Chapter "child care facility" shall include maternity homes, early childhood learning centers, and residential homes as defined in this Section.

LSA-R.S. 46:1403.1

§ 1403.1. Extended stay for completion of educational courses or other programs

Notwithstanding any other provision of law to the contrary, including but not limited to R.S. 46:1403(A)(1), a person housed at a residential home may stay at such home for a period not to exceed six months beyond his eighteenth birthday to complete any educational course that he began at such facility, including but not limited to a General Education Development course, and any other program offered by the residential home.

LSA-R.S. 46:1404

§ 1404. Requirement of licensure

Effective: January 1, 2014

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A. All early childhood learning centers and specialized providers, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency, shall be licensed. Child care facility licenses shall be of four types: Type I, Type II, Type III, and Type IV.

B. Child-placing agencies within the Department of Children and Family Services shall be exempt from the provisions of this Chapter. The department is authorized and mandated to perform its child-placing functions in accordance with the standards promulgated by the department for licensed child-placing agencies.

LSA-R.S. 46:1405

§ 1405. Transitional provisions

Effective: January 1, 2014

A. (1) Until such time as rules are promulgated by the department to implement the types of licenses required by R.S. 46:1404, child care facilities and child-placing agencies shall follow the rules, regulations, and standards in effect for Class A and Class B licensure.

(2) The department shall create an early childhood learning working group to include one representative from Louisiana's Early Childhood Advisory Council, the Child Care Association of Louisiana, the Nonpublic School Council, the Louisiana Head Start Association, the Department of Children and Family Services, the Department of Education, the Children's Cabinet, and the office of the governor. Such working group shall include participants having expertise in care of infants and toddlers, pediatric health, pediatric mental health, cognitive development, and social emotional development. The department shall seek input from the working group in the development of the rules and regulations establishing Type I, Type II, and Type III licenses and shall submit the proposed rules and regulations pursuant to this Section to the working group for approval. Such working group shall forward the proposed rules and regulations to the Children's Defense Fund, the Louisiana Association for the Education of Young Children, and Louisiana Partnership for Children and Families no later than November 1, 2013, for review and comment. The working group shall be dissolved on the effective date of any provision of law which transfers statutory authority for licensing of child day care centers from the Department of Children and Family Services to the Department of Education.

B. All existing child day care centers or residential homes possessing a Class B license shall be issued a Type I license as provided by rule.

C. (1) All child day care centers that meet the definition for a Type II license pursuant to this Chapter shall be issued a Type II license as provided by rule.

(2) Any child day care center possessing a Class A license on January 1, 2014, that meets the definition of a Type II license pursuant to this Chapter shall be issued a Type II license as provided by rule.

D. All existing early childhood learning centers that meet the definition for a Type III license pursuant to this Chapter shall be issued a Type III license as provided by rule.

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E. (1) All existing child placing agencies, maternity homes, and residential homes that meet the definition for a Type IV license pursuant to this Chapter shall be issued a Type IV license as provided by rule.

(2) Any maternity home, residential home, or child-placing agency possessing a Class A license on January 1, 2014, that meets the definition of a Type IV license pursuant to this Chapter shall be issued a Type IV license.

F. Any early childhood learning center that requests to change its license type for the following year shall apply to the department no later than December first of the preceding year. This Subsection shall not apply to early childhood learning centers changing location or ownership that are required to apply for a new license pursuant to R.S. 46:1406(C).

LSA-R.S. 46:1406

Formerly cited as R.S. 46:1408; R.S. 46:1409; R.S. 46:1412; R.S. 46:1413; R.S. 46:1424

§ 1406. Licenses; application; temporary or provisional; fees

Effective: January 1, 2014

A. Application for licensure of a new child care facility or specialized provider shall be made by the child care facility or specialized provider to the department upon forms furnished by the department. Upon receipt of the application for a license and verification that minimum requirements for such license as established by rule are satisfied, and that the facility or agency is in compliance with all other state and local laws and regulations, the department shall issue a Type I, Type II, Type III, or Type IV license for the appropriate license category for such period as may be provided for by rule.

B. The department may provide through the promulgation of rules for the issuance of temporary, provisional, or extended licenses for each license category and type if a disapproval has not been received from any other state or local agency authorized by any other laws or rules to inspect such facilities or agencies.

C. A license of any type or category shall apply only to the location stated on the application, and such license, once issued, shall not be transferable from one person to another or from one location to another. If the location or ownership of the facility is changed, then the license shall be automatically revoked. A new application form shall be completed prior to all license renewals.

D. Each licensed facility shall display its license in a prominent place at the facility, except that a facility operated by a church or religious organization may be exempt from such requirement, provided the license is available upon request.

E. There shall be an annual license fee for each type of early childhood learning center and specialized provider in an amount equal to the annual license fee in effect for all Class A and Class B child care facilities and child-placing agencies possessing such license on January 1, 2014, without an increase in the amount of such fees.

F. There shall be an annual license fee of twenty-five dollars for any license issued to an early childhood learning center providing care for fifteen or fewer children; one hundred dollars for any license issued to an early childhood learning center providing care for at least sixteen but no more than fifty children; one hundred seventy-five dollars for any license issued to an early childhood learning center providing care for at least fifty-one but no more than one hundred children; and two hundred fifty dollars for any license issued to an early childhood learning center providing care for more than one hundred children.

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G. There shall be an annual license fee of one hundred dollars for any license issued to a residential home providing care for six or less children; two hundred dollars for any license issued to a residential facility providing care for at least seven but no more than fifteen children; and three hundred dollars for any license issued to a residential facility providing care for sixteen or more children.

H. There shall be an annual license fee of fifty dollars for any license issued to a child-placing agency or maternity home.

I. The fees provided for in this Section shall not apply to any Type I child day care center owned or operated by a church or religious organization.

J. Annual fees for any type or category of license shall not be increased unless expressly authorized by statute as provided in Article VII, § 2.1 of the Constitution of Louisiana.

LSA-R.S. 46:1407

Formerly cited as R.S. 46:1408; R.S. 46:1409; R.S. 46:1412; R.S. 46:1413; R.S. 46:1424

§ 1407. Rules, regulations, and standards for licenses

Effective: January 1, 2014

A. The department shall promulgate regulations for each category and type of license to carry out the provisions of this Chapter in accordance with the provisions of the Administrative Procedure Act. The department shall seek input and guidance from the Louisiana Advisory Council on Child Care and Early Education concerning the proposed rules and regulations for approval of Type I, Type II, and Type III facilities for licensure in accordance with the Administrative Procedure Act.

B. (1) The regulations developed by the department, at a minimum, shall accomplish all of the following:

(a) Promote the health, safety, and welfare of children attending any facility.

(b) Promote safe, comfortable, and proper physical facilities.

(c) Ensure adequate supervision of those attending facilities by capable, qualified, and healthy personnel.

(d) Ensure adequate and healthy food service in facilities where food is offered.

(e) Prohibit discrimination by early childhood learning centers and specialized providers on the basis of race, color, creed, sex, national origin, handicap, ancestry, or whether the child is being breastfed. However, nothing in this Subparagraph shall be construed to affect, limit, or otherwise restrict any of the following:

(i) The hiring or admission policies of a licensed child day care center owned by a church or religious organization.

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which may give preference in hiring or admission to members of the church or denomination.

(ii) The rights of religious sectarian child-placing agencies to consider creed in any decision or action relating to foster care or adoption.

(f) Require providers to have a written description of admission policies and criteria which expresses the needs, problems, situations, or patterns best addressed by its program. These policies shall be available to the person legally responsible for any child referred for placement.

(g) Include procedures by which parents and guardians are given an opportunity for consultation and information about the educational and therapeutic programs for the child in attendance.

(h) Include regulations and standards for nighttime care.

(i) Include procedures for the receipt, recordation, and disposition of complaints.

(j) Include procedures for the return of a child to his parent. Arrangements for the child's return to his parent shall not include third parties or other child care agencies unless written agreement between the child care agency and the parent is on file with the child care agency.

(k) Include procedures that allow an early childhood learning center to remedy certain deficiencies immediately upon identification by the department in an onsite inspection, provided that any deficiency that may be remedied in such manner does not constitute a critical violation of licensing standards as determined by the department.

(2)(a) Any entity approved by the department shall be required to have all of the following:

(i) Approval from the Department of Public Safety and Corrections, office of the state fire marshal, code enforcement and building safety.

(ii) Approval from the Department of Health and Hospitals, office of public health.

(b) Type III early childhood learning centers shall adhere to the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness as determined by the State Board of Elementary and Secondary Education. The Department of Education shall base its approval upon the uniform accountability system.

(3) No facility holding a Type I license shall receive any state or federal funds, from any source, whether directly or indirectly. If a facility holding a Type I license receives any state or federal funds, its license shall be automatically revoked.

(4) No facility holding a Type II license shall receive any state or federal funds, from any source, whether directly or indirectly, other than those received solely for food and nutrition. If a facility holding a Type II license receives any state or federal funds, whether directly or indirectly, other than those received solely for food and nutrition, its license shall be automatically revoked.

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C. The department shall prepare standard forms for applications and for inspection reports.

D. A comprehensive review of all standards, rules, and regulations for all licenses shall be made at least every three years by the department.

E. The secretary of the department, in specific instances, may waive compliance with a minimum standard upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children is not imperiled. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

F. Discrimination by child care facilities and child-placing agencies on the basis of race, color, creed, sex, national origin, disability as defined by R.S. 51:2232(11), ancestry, or whether the child is being breastfed is prohibited. However, this shall not restrict the hiring or admission policies of a church or religious organization, which may give preference in hiring or admission to members of the church or denomination.

G. The department shall not regulate or attempt to regulate or control the religious or spiritual content of the curriculum of a school or facility sponsored by a church or religious organization.

H. Nothing in the rules, regulations, and standards adopted pursuant to this Section shall authorize or require medical examination, immunization, or treatment of any child whose parents object to such examination, immunization, or treatment on religious grounds.

I. Each facility shall have a written discipline policy, which shall be made available to parents and to authorized inspection personnel upon request.

LSA-R.S. 46:1408

§§ 1408 to 1409. Repealed by Acts 2013, No. 179, § 2, eff. Jan. 1, 2014

Effective: January 1, 2014

LSA-R.S. 46:1409

§§ 1408 to 1409. Repealed by Acts 2013, No. 179, § 2, eff. Jan. 1, 2014

Effective: January 1, 2014

LSA-R.S. 46:1410

§§ 1410, 1411. Repealed by Acts 2009, No. 194, § 3, eff. June 30, 2009

Effective: June 30, 2009

LSA-R.S. 46:1411

§§ 1410, 1411. Repealed by Acts 2009, No. 194, § 3, eff. June 30, 2009

Effective: June 30, 2009

LSA-R.S. 46:1412

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§§ 1412 to 1413. Repealed by Acts 2013, No. 179, § 2, eff. Jan. 1, 2014

Effective: January 1, 2014

LSA-R.S. 46:1413

§§ 1412 to 1413. Repealed by Acts 2013, No. 179, § 2, eff. Jan. 1, 2014

Effective: January 1, 2014

LSA-R.S. 46:1414

§ 1414. Louisiana Advisory Council on Child Care and Early Education

Effective: August 1, 2012

A. The department shall through the promulgation of rules and regulations, pursuant to the Administrative Procedure Act, create the Louisiana Advisory Council on Child Care and Early Education, referred to hereafter in this Section as the "council". The rules and regulations shall provide for membership, terms, voting procedures, quorum, and any other matters that are necessary for the creation and maintenance of the council.

B. The council shall provide input and guidance to the department on matters pertaining to rules, regulations, and standards for all day care centers as defined in R.S. 46:1403(A)(4), including but not limited to rules, regulations, and standards for licensure.

C. The council shall transmit the minutes of each meeting of the council to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

LSA-R.S. 46:1414.1

§ 1414.1. Disclosure requirements; penalties

Effective: January 1, 2010

A. Any owner, operator, current or prospective employee, or volunteer of a child care facility licensed by the Department of Children and Family Services shall report annually and at any time upon the request of the department on the state central registry disclosure form promulgated by the department whether or not his name is currently recorded on the state central registry for a justified finding of abuse or neglect and he is the named perpetrator.

B. Any such current or prospective employee or volunteer of a child care facility licensed by the department shall submit the state central registry disclosure form to the owner or operator of the facility, who shall maintain the documents in accordance with current department licensing requirements. Any state central registry disclosure form that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

C. Any owner, operator, current or prospective employee, or volunteer of a child care facility licensed by the department who knowingly falsifies the information on the state central registry disclosure form shall be guilty of a misdemeanor offense and shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

D. Any owner, operator, current or prospective employee, or volunteer of a child care facility licensed by the department who discloses that he is currently recorded on the state central registry for a justified finding of abuse or neglect shall be entitled to a risk assessment evaluation provided by the department to determine that the individual does not pose a risk to children. Any such individual who is determined to pose a risk to children shall have the right to file an appeal in accordance with R.S. 49:992 of the Administrative Procedure Act. Any such determination by the risk evaluation panel shall be kept on file at all times by the department.

E. The department shall promulgate rules and regulations to implement this Section. The rules and regulations shall include but not be limited to establishing criteria for risk evaluation requests, the composition of the risk evaluation panel, and establishing criteria for risk evaluation determinations.

LSA-R.S. 46:1415

§ 1415. Facilities and agencies subject to regulation; exemptions

Effective: January 1, 2014

A. All early childhood learning centers and specialized providers shall be subject to the provisions of this Chapter. However, private or public day schools serving children in grades one and above, including any kindergartens or prekindergarten programs attached thereto, as well as camps, and all care given without charge, shall be exempt from such provisions.

B. Nothing in this Chapter shall apply to facilities licensed by the Department of Health and Hospitals.

LSA-R.S. 46:1416

§ 1416. Special, temporary, or continued care for children

Any institution, society, agency, corporation, facility, person or persons, or any other group licensed in accordance with the provisions of this Chapter may receive children from their parents or legal guardians or from the courts for special, temporary, or continued care.

LSA-R.S. 46:1417

§ 1417. Inspections

It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice all child care facilities and child-placing agencies subject to the provisions of this Chapter. The department shall also develop and facilitate coordination with and among other authorized agencies making inspections at regular intervals. The facility shall be open to inspection only during working hours by parents or legal guardians of children in care and by authorized inspection personnel.

LSA-R.S. 46:1418

§ 1418. Complaints

A. It shall be the duty of the department, through its duly authorized agents, to investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging child abuse, against any child care facility or child-placing agency as defined in this Chapter. The department may take such action as is authorized by this Chapter. Any complaint received concerning the prevention or spread of communicable diseases shall be immediately referred to the state health officer through the nearest parish health unit for investigation and disposition.

B. The department shall receive, record, and dispose of complaints in accordance with rules and regulations promulgated under the provisions of this Chapter.

LSA-R.S. 46:1419

§ 1419. Revocation or refusal to renew license; written notice

Effective: January 1, 2014

The department shall have the power to deny, revoke, or refuse to renew a license for a child care facility or specialized provider if an applicant has failed to comply with the provisions of this Chapter or any applicable, published rule or regulation of the department relating to child care facilities and specialized providers. If a license is denied, revoked, or withdrawn, the action shall be effective when made and the department shall notify the applicant, licensee, or specialized provider of such action in writing immediately and of the reason for the denial, revocation, or withdrawal of the license.

LSA-R.S. 46:1420

§ 1420. Refusal or revocation of license; appeal procedure

Effective: January 1, 2014

A. Upon the refusal of the department to grant a license or upon the revocation of a license, the agency, institution, society, corporation, person or persons, or other group having been refused a license or having had a license revoked shall have the right to appeal such action by submitting a written request to the secretary of the department within thirty days after receipt of the notification of the refusal of the license or, in the case of revocation, within fifteen calendar days after receipt of the notification of the revocation. The appeal hearings shall be held no later than thirty days after the request therefor, except as provided in the Administrative Procedure Act, and shall be conducted in accordance with applicable regulations of the department and the provisions of R.S. 46:107. This provision shall in no way preclude the right of the party to seek relief through mandamus suit against the department, as provided by law.

B. Notwithstanding any law, rule, regulation, or provision to the contrary, including but not limited to R.S. 49:964(A)(2), the department shall be entitled to seek judicial review from any final decision or order rendered by the division of administrative law in any appeal hearing arising under this Chapter. The venue of judicial review shall be the district court of the parish in which the licensee is located.

LSA-R.S. 46:1421

§ 1421. Operating without or in violation of license; penalty

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Effective: January 1, 2014

Whoever operates any child care facility or specialized provider, as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than one thousand dollars for each day of such offense.

LSA-R.S. 46:1422

§ 1422. Operating without or in violation of license; injunctive relief

Effective: January 1, 2014

If any child care facility or specialized provider operates without a valid license issued by the department, the department may file suit in the district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons, or any other group operating the facility or agency from continuing the violation. The state health officer shall have exclusive authority over all matters involving the prevention or spread of communicable diseases within a child care facility or specialized provider.

LSA-R.S. 46:1423

§ 1423. Removal of individuals from facility

The department shall remove any child or all children from any facility or agency when it is determined that one or more violations exist within the facility or agency which places the health and well-being of the child or children in imminent danger; provided, however, that a contradictory hearing shall be held within seven days thereafter by the district court of the district to determine whether the action was justified and whether and how long it shall continue.

LSA-R.S. 46:1424

§ 1424. Repealed by Acts 2013, No. 179, § 2, eff. Jan. 1, 2014

Effective: January 1, 2014

LSA-R.S. 46:1425

§ 1425. Adoption services; requirements for advertising; injunctive relief; exceptions; penalties

Effective: January 1, 2014

A. It shall be unlawful for any person other than a licensed child-placing agency or a Louisiana-based crisis pregnancy center to advertise through print or electronic media that it will adopt children or assist in the adoption of children.

B. If any person advertises in violation of this Section, the attorney general, the Department of Children and Family Services, the appropriate district attorney, or any licensed child-placing agency or a Louisiana-based crisis pregnancy center may file suit in district court according to the general rules of venue to obtain injunctive relief to restrain the person from continuing the violation.

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C. Nothing in this Section shall apply to any individual licensed to practice law in this state while such individual is engaged in the practice of law or to any individual licensed to provide mental health counseling as provided in Children's Code Article 1120 and preplacement and home studies as provided in Children's Code Article 1173.

D. Anyone who violates the provisions of this Section shall be liable for all costs of any proceeding brought to enjoin such violation, including reasonable attorney fees, which shall be set by the court.

LSA-R.S. 46:1426

§ 1426. Disclosure of information

Effective: January 1, 2014

A. The department shall make available, upon request of a parent or guardian of any child who has applied for placement in a child day care center licensed by the department, the following information relative to such child day care center:

(1) Each valid finding of child abuse, neglect, or exploitation occurring at the center, subject to the limitations provided by R.S. 46:56(F)(4)(c).

(2) Whether or not the child day care center employs any person who has been convicted of or pled guilty or nolo contendere to any of the crimes provided in R.S. 15:587.1.

(3) Any violations of standards, rules, or regulations applicable to such child day care center.

(4) Any waivers of minimum standards authorized for such child day care center.

B. Requests may be made by telephone or in writing. Such requests shall include the name of each child day care center for which information is requested.

C. (1) Licensed child day care centers and other state agencies shall cooperate with the secretary of the department to make such requested information available.

(2) Child day care centers shall make available to parents or legal guardians information on how to view or obtain copies of child care licensing surveys from the department. Child day care centers shall post information which explains that the licensing surveys are available online and list the Internet website address where such information may be obtained and information which explains that licensing surveys may be obtained by sending a request in writing to the department. The department shall develop a form suitable for display which shall be posted at each licensed child day care center in compliance with this Subsection.

D. The department shall adopt procedures and guidelines for the implementation of this Section by rule in accordance with the Administrative Procedure Act. Such procedures and guidelines may include a procedure for verification that an application for placement in a licensed child day care center has actually been made.

LSA-R.S. 46:1427

§ 1427. Parent-child relationship

Effective: June 25, 2010

The Department of Children and Family Services shall not interfere with the parent-child relationship regarding the religious training of a child, where all of the following conditions are met:

(1) The parent or legal guardian has enrolled their child in a child care facility, including but not limited to a child residential facility, operated by a religious, nonprofit organization which is exempt from federal income taxes pursuant to 26 U.S.C. 501(c)(3).

(2) Where, as a condition of enrollment, the child is required to attend religious services or classes and the parent or guardian of the child agrees to such condition.

LSA-R.S. 46:1428

§ 1428. Immunization information; influenza

Effective: January 1, 2014

A. Each licensed child care facility, before November first of each year, shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications, and possible side effects of the influenza immunization. Such information shall include the causes and symptoms of influenza, the means by which influenza is spread, and the places where a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. Such information shall be updated annually if new information on such disease is available.

B. (1) The Department of Health and Hospitals shall develop and provide information on influenza immunization to the Department of Children and Family Services. The Department of Children and Family Services shall provide such information to each licensed child care facility, which shall make the information available to each child's parent or legal guardian pursuant to Subsection A of this Section.

(2) The Department of Health and Hospitals and the Department of Children and Family Services shall determine respectively the most cost-effective and efficient means of distributing such information.

C. The Department of Children and Family Services, in consultation with the Department of Health and Hospitals, shall establish by rules and regulations all guidelines and procedures for carrying out the provisions of this Section in accordance with the Administrative Procedure Act.

D. Nothing in this Section shall be construed to require any licensed child care facility, the Department of Children and Family Services, or the Department of Health and Hospitals to provide or pay for immunizations against influenza.

LSA-R.S. 46:1429

§ 1429. Exceptions; religious organizations; children's religious ministries

Effective: January 1, 2014

A recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code¹, which remains open for not more than twenty-four hours in a continuous seven-day week, and in which no individual child remains for more than twenty-four hours in one continuous stay shall not be considered a "child day care center" for the purposes of this Chapter.

LSA-R.S. 46:1430

§ 1430. Operating in violation of regulations; penalties and fines

Effective: January 1, 2013

A. (1) For violations related to supervision, criminal history record checks, the state central registry disclosure process, staff-to-child ratios, motor vehicle checks, or failure to report critical incidents, the Department of Children and Family Services may issue a written warning that includes a corrective action plan, in lieu of revocation, upon any person or entity violating these requirements if such condition or occurrence does not pose an imminent threat to the health, safety, rights, or welfare of a child. Failure to implement a corrective action plan issued pursuant to this Section may result in either the assessment of a civil fine or license revocation or may result in both actions being taken by the department. Such civil fine shall not exceed two hundred fifty dollars per day for each assessment; however, the aggregate fines assessed for violations determined in any consecutive twelve-month period shall not exceed two thousand dollars.

(2) The department shall adopt rules in accordance with the Administrative Procedure Act which articulate factors in determining the type of sanction imposed including the severity of risk, the actual harm and mitigating circumstances, the failure to implement a written corrective action plan, the history of noncompliance, an explanation of the treatment of continuing and repeat deficiencies, evidence of a good faith effort to comply, and any other relevant factors. The department shall develop and adopt rules and regulations required by this Paragraph with input and guidance from the Louisiana Advisory Council on Child Care and Early Education. The authority to impose sanctions pursuant to this Section shall commence on the effective date of the rules promulgated pursuant to this Section.

B. The department shall adopt rules and regulations in accordance with the Administrative Procedure Act to provide for notice to the child care facility or child-placing agency of any violation, for a departmental reconsideration process for sanctions issued, and for an appeal procedure including judicial review. Such appeal shall be suspensive. All appeals pursuant to this Subsection shall be heard by the division of administrative law pursuant to Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950. The division shall furnish to the facility or agency a copy of the decision, together with notice of the manner for requesting judicial review. During the pendency of an appeal, a child care facility or child-placing agency may continue to receive funding for services provided to those eligible children as determined by the department.

C. The department may institute any necessary civil court action to collect fines imposed and not timely appealed. No child care facility or child-placing agency shall claim imposed fines as reimbursable. Interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable. All costs of any successful action to collect such fines, including travel expenses and reasonable attorney fees, shall be awarded to the department in addition to the fines.

D. (1) Civil fines collected pursuant to the provisions of this Section shall be deposited immediately into the state treasury.

Louisiana Statutes Annotated _Louisiana Revised Statutes _Title 46. Public Welfare and Assistance
_Chapter 14. Child Care Facilities and Child-Placing Agencies

(2) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to the monies being placed in the state general fund, an amount equal to the amount deposited as provided in Paragraph (1) of this Subsection shall be credited to a special fund hereby created in the state treasury to be known as the “Child Care Licensing Trust Fund”, hereinafter referred to as “the fund”. The monies in the fund shall be subject to annual appropriation and shall be available exclusively for use by the Department of Children and Family Services for the education and training of employees, staff, or other personnel of child care facilities and child-placing agencies.

(3) The monies in the fund shall be invested by the treasurer in the same manner as the monies in the state general fund, and all interest earned from the investment of monies in the fund shall be deposited in and remain to the credit of the fund. All unexpended and unencumbered monies remaining in the fund at the end of the fiscal year shall remain in the fund.