

**10-148 CMR Ch. 32, Ch. I, § Statement of Purpose**

**STATEMENT OF PURPOSE**

The purpose of these rules is to establish licensing standards for Child Care Facilities. The rules support childcare services that meet children's psychosocial and developmental needs while providing a safe, healthy and secure environment.

These rules are promulgated in accordance with 22 M.R.S.A. §8301-A, §8302-A and §8402-A and describe the minimum requirements for the operation and licensing of Child Care Facilities and such requirements that the provider must meet regarding application and inspection procedures, fire safety standards, qualifications of the provider, children's rights, staff supervision and staff ratios, record keeping, health, sanitation and safety.

A license to provide childcare services is required for all Child Care Facilities. The two types of Child Care Facilities are Small Childcare Facilities and Childcare Centers.

**10-148 CMR Ch. 32, Ch. I, § 1**

**1. DEFINITIONS**

**1.1. "Abuse or neglect"** means a threat to a child's health or welfare by physical, mental, or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these, by a person responsible for the child.

**1.2. "Adult"** means a person eighteen (18) years of age and over.

**1.3. "Child or children"** means a child or children under the age of sixteen (16) years.

**1.4. "Childcare Center"** means

**1.4.1.** A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for thirteen (13) or more children under thirteen (13) years of age; or

**1.4.2.** Any location or locations operated as a single childcare program or by a single person or persons when there are more than twelve (12) children being cared for.

**1.5. "Child Care Facility"** means a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for three (3) or more children under thirteen (13) years of age. Any program for children under 5 years of age that is located in a private school and programs that contract with one or more Child Development Services System sites are required to be licensed as a Child Care Facility.

**1.5.1. There are two types of Child Care Facilities:**

**1.5.1.1. Child Care Center; and**

**1.5.1.2. Small Childcare Facility.**

**1.5.2. “Child Care Facility” does not include a facility operated by a family child care provider, a summer camp established solely for recreational and educational purposes, programs offering instruction to children for the purpose of teaching a skill such as karate, dance or basketball or a private school recognized by the Department of Education as a provider of equivalent instruction for the purpose of compulsory school attendance, or a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A.**

**1.6. “Corporal punishment” means actions against a child, including, but not limited to:** green and blue

1.6.1. Slapping;

1.6.2. Striking;

1.6.3. Shaking;

1.6.4. Shoving;

1.6.5. Spanking;

1.6.6. Pinching;

1.6.7. Twisting;

1.6.8. Kicking;

1.6.9. Biting;

1.6.10. Ear pulling or ear twisting;

1.6.11. Hair pulling;

**1.6.12. Forcing a child to taste or eat spicy, bitter or otherwise distasteful products for the purpose of discipline;**

1.6.13. Spraying with water as a means of controlling behavior;

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

1.6.14. Placing tape over a child's mouth;

1.6.15. Mechanical restraints, such as tying a child to a chair

1.6.16. Other forms of aggressive contact; or

1.6.17. Requiring or forcing a child to take an uncomfortable position such as:

1.6.17.1. Squatting;

1.6.17.2. Kneeling;

1.6.17.3. Standing holding arms outstretched at sides or overhead;

1.6.17.4. Bending; or

1.6.17.5. Requiring or forcing a child to repeat physical movements.

1.7. "Department" means the Department of Health and Human Services.

1.8. "Director" means the individual having responsibility for carrying out policy and administering the facility. In a corporation or trust the individual delegated to carry out or enforce policies developed by the governing body or trustees. The director may also act as head teacher.

1.9. "Field trip" means any excursion off the property of the Child Care Facility.

1.10. "Governing body" means a person or persons ultimately responsible for the operation of a facility. The governing body has authority over the policies and activities of a facility.

1.11. "Group" means a specific number of children assigned to specific staff using the same room or identifiable activity space. The space must be an individual room or a specific area within a large room. The area must be defined by a visible barrier, partition or other room divider having a height above the eye level of the children who will use that area. Maximum group size is determined by Section 28 of these rules.

1.12. "Group leader" means the person having responsibility for a group of children in a facility licensed for thirteen (13) or more children.

1.13. "Head teacher" means the individual having overall program responsibility for children enrolled at the facility. The head teacher may also act as director.

1.14. "Infant/toddler program" means a childcare program serving children ages six (6) weeks to thirty-six (36) months.

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

**1.15. “Legal guardian”** means the parent or other person who has legal decision-making authority for the child.

**1.16. “License”** means written permission, whether provisional, temporary, conditional, or full by the department that authorizes the licensee to operate a Child Care Facility.

**1.17. “Licensee”** means the person to whom a license has been issued.

**1.18. “Lifeguard”** is a water safety attendant who has a current certificate issued by a lifeguard certifying authority recognized by the department.

**1.19. “Notifiable condition”** refers to any communicable disease, occupational disease, or environmental disease, the occurrence or suspected occurrence of which is required to be reported to the Department of Health and Human Services pursuant to 22 M.R.S.A. §§ 802 and 1493 and listed as a notifiable disease or condition in the department’s Rules Relating to Notifiable Diseases and Conditions, 10-144 C.M.R. Ch. 258.

**1.20. “Occasional care program”** means a Child Care Facility caring for children on a drop-in or otherwise irregular basis, for example, one located in a ski area or shopping center.

**1.21. “Operator”** means the person operating a Child Care Facility.

**1.22. “Parent”** means the birth or adoptive mother or father, legal guardian or legal custodian of the child.

**1.23. “Person”** means any individual, partnership, association, organization, corporation, or trust.

**1.24. “Preschool child”** means a child age two and one half (2 ½) years through five (5) years old.

**1.25. “Provider”** means any person, partnership, agency, voluntary association, or corporation who owns/leases a building and conducts a children’s day care program for children in that building.

**1.26. “Pool”** means any basin, changer or tank constructed of impervious material, located either indoors or outdoors containing an artificial body of water for swimming or recreational activity.

**1.27. “Relatives”** means a child’s blood mother, father, brother, sister, grandparent, great grandparent, uncle, aunt, niece, nephew, or first cousin.

**1.28. “Relatives by adoption”** “Relatives by adoption” shall be considered as blood relatives.

**1.29. “Relatives by marriage”** means a child’s stepmother, stepfather, stepbrother, stepsister, step-grandparent, step-great grandparent and brother or sister of stepparent.

**1.30. “School age child”** means a child who is at least five (5) years of age and under the age of sixteen (16) years.

**1.31. “Small Childcare Facility”** means a house or other place, not the residence of the operator, in which a person, or combination of persons, maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 3 - 12 children under the age of thirteen (13).

**1.32. “Staff”** means any individual who provides care and protection for a child(ren) under the age of sixteen (16) years of age in a Child Care Facility.

**1.33. “Substitute”** means an individual who takes the place of an absent staff member.

**1.34. “Swimming Pool”** means a pool with a depth of more than twenty-four inches (24”) at any point.

**1.35. “Volunteer”** means a person who helps or provides service without compensation in a Child Care Facility.

**1.36. “Wading pool”** means a pool with a maximum water depth of twenty-four inches (24”).

**1.37. “Water safety attendant”** is a person trained in rescue techniques whose job is to watch over swimmers in a wading pool, a swimming pool, or off-site swimming and wading destinations. As required by these rules, appropriately trained water safety attendants include a lifeguard; a person with valid CPR and first aid certificates; and a person who has completed a department-approved basic water safety course that includes training in non-swimming rescue techniques.

## 10-148 CMR Ch. 32, Ch. I, § 2

### 2. LICENSING REQUIREMENTS and PROCEDURES

**2.1. License required.** Any person operating a Child Care Facility for children under thirteen (13) years of age as defined in Section 1.5 is required to have a license from the Department of Health and Human Services to operate this facility.

**2.2. Unlicensed facilities.** No person or entity shall operate a Child Care Facility for more than two (2) children without a license from the department in force, authorizing such operation. (Title 22 M.R.S.A. chapter 1663)

**2.3. Responsibility for compliance.** The person or entity applying for the license shall be responsible for complying with Maine Statutes and Rules adopted pursuant thereto. (Title 22 M.R.S.A. chapter 1663)

**2.4. Qualifications of the applicant and director.** The applicant and proposed director must demonstrate their willingness and ability to operate and manage the Child Care Facility with mature judgment, compassionate regard for the best interests of children and consistent compliance with these regulations and all relevant laws. In making this determination, the department shall consider each of the following factors to the extent that they are relevant to the proposed facility, ownership interest and/or employment:

**2.4.1.** Record and reputation for honest and lawful conduct in business and personal affairs. The applicant shall, as

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

part of the license application and renewal process, authorize the department to review the records of professional licensing boards or registers, any criminal record, child protective record, institutional abuse record or adult protective record necessary to determine compliance with these rules;

**2.4.2.** Management and supervisory experience, including the capacity to manage the financial operations and staff of the Child Care Facility for which the license is sought;

**2.4.3.** Experience in the field of childcare, child development or areas related to the provision of childcare services;

**2.4.4.** Conduct which demonstrates an understanding of, and compliance with, rights for children in Child Care Facilities;

**2.4.5.** Information which relates to the ability or willingness to comply with all applicable laws and rules;

**2.4.6.** Any information reasonably related to the ability to provide safe and developmentally appropriate services at the level of care for which the license is sought.

**2.5. Changes in children served and licensed capacity.** No person shall care for more children or for children who are older or younger than the childcare ratios and license allows. At the discretion of the department, the license may be amended or reissued to increase or decrease the number of children allowed or to change the age range of children that may be cared for by the facility.

**2.6. Application for initial license.** Application for an initial license must be made to the Department of Health and Human Services, Division of Licensing and Regulatory Services, State House Station #11, Augusta, Maine 04333, on forms furnished by the department, and the appropriate fee must be included. Incomplete applications on which no action has been taken by the applicant shall be void after sixty (60) days.

**2.7. Application for renewal of license.** At least sixty (60) days prior to the expiration of a license to operate a Child Care Facility, an application and the required fee for a renewal must be submitted to the department on a form supplied by the department, and accompanied by such additional information as may be required. It is the responsibility of the licensee to make timely application for renewal.

**2.7.1.** Upon receipt and review of applications and determination of compliance with the requirements of the Maine Revised Statutes Annotated and any rules adopted pursuant thereof, the department shall renew such license for a period of two (2) years, unless it finds that there are specific and sufficient grounds either for denial of the application for renewal or for renewal of the license on a temporary or conditional basis. The department will stagger the transition from a one (1) year license to a two (2) year license.

**2.7.2.** If timely application for renewal is made, the existing license shall continue until a final decision on the renewal is made.

**2.8. Nonrefundable fees.** Fees for license application and renewal will be established based on an analysis of the department's costs for issuing the license. Fees will not exceed the cost of issuing licenses. The department will assess biennial renewal fees.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**2.8.1. Application fee.** An application fee for a provisional license (Section 3.2) or a temporary license (Section 3.5) is \$120.00. Payment of the fee must accompany the application or the application is incomplete.

**2.8.2. Renewal fee.** The biennial renewal fee is \$240.00. Payment of the fee must accompany the renewal application or the renewal application is incomplete. Failure to submit a timely renewal application may result in termination of license. The biennial fee is assessed for a full license (Section 3.3) or a conditional license (Section 3.4).

**2.9. Requirement for references.** At the time of application references are required from three (3) persons who are acquainted with but not related to the Child Care Facility operator. If the Child Care Facility is operated by other than an individual, references must pertain to the director who has primary responsibility for the operation of the Child Care Facility.

**2.10. Licenses are only effective at the location for which they are issued.** If the program moves to another location, a new license must be issued prior to operation.

**2.11. Single license for two buildings.** When two (2) or more buildings are or will be utilized to accommodate facilities operated by the same person, the person shall apply to the department for a single license covering all the facilities, provided that:

**2.11.1.** The buildings are on the same or contiguous properties; and

**2.11.2.** The department determines that the issuance of a single Child Care Facility license would not be detrimental to the health, safety, well-being, and development of the children served.

**2.11.3.** The programs must have the same director.

**2.12. One license per single family residence.** No more than one Child Care Facility license shall be issued in any residence occupied by a single family.

**2.13. Dual licensure.** No license to operate a Child Care Facility shall be issued to anyone holding a license to provide foster care for children without prior approval from the Director of the Division of Licensing and Regulatory Services or designee.

#### **2.14. Inspections.**

**2.14.1. Initial inspections.** Following receipt of a complete application for a license to operate a Child Care Facility, a representative of the department will conduct an inspection of the facility, its policies, and program to evaluate compliance with applicable rules adopted by the Department of Health and Human Services.

**2.14.2. Unannounced inspections.** The department must make at least one unannounced inspection of the Child Care Facility licensed under Title 22 M.R.S.A. chapter 1673 during the term of the license. The inspection must take place between 6 and 18 months after the issuance of the license.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**2.15. Determining compliance with these rules.** In some instances, there are no common definitions as to the degree of compliance with the rules. When such instances occur in these rules, the determination of compliance or non-compliance shall be made at the discretion of the department.

#### **2.16. Right of entry.**

**2.16.1.** The department shall have the right to enter upon and into the premises of any licensed program site pursuant to these rules at any reasonable time, in order to determine the state of compliance with the provisions of these rules and applicable laws.

**2.16.2.** Such right of entry and inspection shall extend to any premises which the department has reason to believe is being operated or maintained as a Child Care Facility without a license, but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof unless a warrant is first obtained from the court of jurisdiction authorizing the same.

**2.17. Application constitutes permission for entry.** Any application for a license made pursuant to these rules shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought in order to facilitate verification of the information submitted or in connection with such application.

**2.18. Fire safety inspection.** No license to operate a Child Care Facility at any location will be issued until such facility passes a satisfactory inspection for fire safety and fire protection. Such an inspection must be made biennially (every two years) thereafter if the renewal license is to be issued. All inspections must be made under the provisions of Title 25, chapters 313, 315, and 317 of the Maine Revised Statutes and other fire prevention statutes and rules promulgated by the Department of Public Safety of the State of Maine. Inspections must be made by a person approved by the Maine Department of Public Safety.

**2.19. Increases in licensed capacity.** Requests for any increase in the number of children the Child Care Facility is licensed to serve must be made in writing to the department. No increases in the number of children a program is licensed to serve shall be made without prior written approval from the department.

**2.20. Private water supplies.** Water, which is used for drinking and cooking purposes, must be obtained from a municipal water system or other satisfactory supply which meets the standards of the Division of Health Engineering of the Department of Health and Human Services. Water must be tested for the following: coliform bacteria, nitrate and nitrite nitrogen, fluoride, chloride, hardness, copper, iron, pH, manganese, lead, and arsenic. If a satisfactory supply cannot be provided, a license or renewal of a license cannot be issued.

**2.21. Criminal history and child protection reports.** Criminal history reports, out of home abuse investigation reports and child protection reports must be obtained for each individual applicant for a license, and for each paid, unpaid, temporary, or regular staff member, director, or volunteer, in a Child Care Facility as required by Section 11. Criminal history reports, out of home abuse investigation reports, and child protection reports must also be obtained for governing body members, trustees, partners, corporate officers, owners or operators who serve in a child caring capacity at the facility.

10-148 CMR Ch. 32, Ch. I, § 3

### 3. TYPES OF LICENSES



**3.1. Licenses.** The department shall issue the following types of licenses:

**3.2. Provisional license.** A provisional license shall be issued by the department to an applicant who meets all of the following:

**3.2.1.** Has not previously operated the facility for which the application is made or is licensed but has not operated during the time of that license;

**3.2.2.** Complies with all applicable laws and rules, except those which can only be complied with once children are served by the applicant; and

**3.2.3.** Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license term.

**3.3. Full license.** The department shall issue a full license to an applicant who, in the department's determination, complies with all applicable laws and rules.

**3.4. Conditional license.** A conditional license may be issued by the department when the licensee or applicant fails to comply with the applicable law and rules and, in the judgment of the Commissioner, the best interest of the public would be so served by issuing a conditional license. The department shall specify in writing when and what corrections must be made during the term of the conditional license.

**3.5. Temporary license.** A temporary license may be issued by the department whenever a licensed Child Care Facility moves to a new location. The department may issue a temporary license, valid pending final action on the application for the new location when:

**3.5.1.** All applicable standards have been met except a requirement that is dependent on the action of an agency of state government or a contractor of that agency; and

**3.5.2.** Through no action by the applicant that causes a significant delay, timely issuance of a provisional or full license is delayed by the agency of state government or a contractor of that agency.

#### 10-148 CMR Ch. 32, Ch. I, § 4

### 4. TERM OF LICENSE

**4.1. Term of provisional license.** The provisional license shall be issued for a minimum period of three (3) months or a longer period, as deemed appropriate by the department, not to exceed twelve (12) consecutive months.

**4.2. Term of full license.** The term of a full license shall be for two (2) years.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**4.3. Term of conditional license.** The conditional license shall be issued for a specific period, not to exceed one (1) year, or the remaining period of the previous full license, whichever the department determines appropriate based on the laws and rules violated.

**4.4. Term of temporary license.** The temporary license shall be issued for a specific period, not to exceed six (6) months.

**4.5. Monitoring for compliance.** Regardless of the term and type of the license, the department shall monitor for the continued compliance with applicable laws and rules on at least an annual basis.

#### 10-148 CMR Ch. 32, Ch. I, § 5

### 5. ENFORCEMENT PRODEDURES

#### 5.1. Operating without a license.

**5.1.1. License required.** A person, firm, partnership, association, corporation or other entity may not, without first obtaining a license, operate a child care facility as defined in 22 MRSA § 8301-A (B).

**5.1.2. Civil penalties.** A person, firm, partnership, association, corporation or other entity who violates section 5.1.1 commits a civil violation and is subject to a civil penalty of not less than \$500 nor more than \$10,000 per day. Each day of violation constitutes a separate offense.

**5.1.3. Injunctive relief.** Notwithstanding any other remedies provided by law, the Office of the Attorney General may seek an injunction to require compliance with the provisions of section 5.1.1.

**5.1.4. Enforcement.** The Office of the Attorney General may file a complaint with the District Court seeking civil penalties or injunctive relief or both for violations of section 5.1.1.

**5.1.5. Jurisdiction.** The District Court has jurisdiction pursuant to the Maine Revised Statutes, Title 4, section 152 for violations of section 5.1.1.

**5.1.6. Burden of proof.** The burden is on the department to prove, by a preponderance of the evidence, that the alleged violations of section 5.1.1 occurred.

**5.1.7. Right of entry.** To inspect the premises of a child care facility that the department knows or believes is being operated without a license, the department may enter only with the permission of the owner or person in charge or with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court authorizing entry and inspection.

**5.1.8. Administrative inspection warrant.** The department and a duly designated officer or employee of the department have the right to enter upon and into the premises of an unlicensed child care facility with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court at a reasonable time and, upon demand, have the right to inspect and copy any books, accounts, papers,

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Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

records and other documents in order to determine the state of compliance with section 5.1.1. Pursuant to the Maine Rules of Civil Procedure, Rule 80E the department's right of entry and inspection may extend to any premises and documents of a person, firm, partnership, association, corporation or other entity that the department has reason to believe is operating with a license.

**5.1.9. Noninterference.** An owner or person in charge of an unlicensed child care facility may not interfere with or prohibit the interviewing by the department of residents or consumers of services.

**5.1.10. Violation of injunction.** A person, firm, partnership, association, corporation or other entity that violates the terms of an injunction issued under this section shall pay to the State a fine of not less than \$500 nor more than \$10,000 for each violation. Each day of violation constitutes a separate offense. In an action brought by the Office of the Attorney General against a person, firm, partnership, association, corporation or other entity for violating the terms of an injunction under this section, the District Court may make the necessary orders or judgments regarding violation of the terms of the injunction.

**5.2. Notice of refusal to issue or renew license.** When an applicant fails to comply with applicable laws and rules, the department may refuse to issue or renew the license. The notice of a refusal to issue or renew and a statement indicating the reasons for refusal must be formulated in writing and mailed to the applicant.

**5.3. Conditional license, refusal to issue license, and suspension or revocation of license.**

**5.3.1. Conditional license.** If, at the expiration of a full or provisional license or during the term of a full license, the facility fails to comply with applicable laws and rules and, in the judgment of the Commissioner, the best interest of the public would be served, the department may issue a conditional license, or change a full license to a conditional license. Failure by the conditional licensee to meet the conditions specified by the department permits the department to void the conditional license or refuse to issue a full license. The conditional license is void when the department has delivered in hand or by certified mail a written notice to the licensee or, if the licensee cannot be reached for service in hand or by certified mail, has left written notice thereof at the agency or facility.

**5.3.2. Refusal to issue a license.** The department shall refuse to issue a license to the applicant identified in the application if it finds any representation made in the application to be materially incorrect or insufficient, or if it finds that the applicant or director of the program does not meet all requirements of law and rules.

**5.3.3. Suspension or revocation of a license.** The department may suspend or revoke any license for violation of applicable laws and rules; for committing, permitting, aiding or abetting any illegal practices in the operation of the program or for conduct or practices detrimental to the welfare of children participating in the program.

**5.3.3.1. Emergency suspension.** Whenever, upon investigation, conditions are found which, in the opinion of the department, immediately endanger the health or safety of children attending the Child Care Facility, the department may request the District Court for an emergency suspension pursuant to Title 4 M.R.S.A. § 184(6).

**5.3.3.2. Administrative suspension.** Whenever conditions exist that immediately jeopardize the health and safety of children, the Commissioner of the Department of Health and Human Services may issue an order of closure, which suspends the Child Care Facility license for up to ten (10) days, pending further investigation or prior to obtaining an order of emergency suspension from the court. The department shall require that an order of closure be posted at the facility and made public as it determines to be most appropriate for parents and other potential customers.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**5.4. Limitation on reapplication after denial or revocation of license.** Pursuant to 22 MRSA § 7802 (6), the following time limit applies to a reapplication after denial or revocation of license.

**5.4.1.** When a license for a child care facility has been denied or revoked on one occasion, the applicant or licensee may not reapply for a license for a child care facility for a period of one year from the effective date of the denial or revocation decision if not appealed or, if appealed, from the effective date of the commissioner's final decision or the reviewing court's order, whichever is later.

**5.4.2.** If a license for a child care facility has been denied or revoked on two (2) occasions, the applicant or licensee may not reapply for a license for a child care facility for a period of two (2) years from the effective date of the second denial or revocation decision if the decision is not appealed or, if appealed, from the effective date of the commissioner's final decision or the reviewing court's order, whichever is later.

**5.4.3.** If a license for a child care facility has been denied or revoked on three (3) occasions, the applicant or licensee may not receive another license for the care of children.

#### **5.5. Intermediate sanctions.**

**5.5.1. Grounds for intermediate sanctions.** The following circumstances shall be grounds for the imposition of intermediate sanctions:

**5.5.1.1.** Operation of a Child Care Facility without a license;

**5.5.1.2.** Impeding or interfering with the enforcement of laws or rules governing the licensing of a Child Care Facility, or giving false information in connection with the enforcement of such laws and rules; and/or

**5.5.1.3.** Failure to comply with **Rights for Children in Child Care Facilities**, Section 10 of these rules.

**5.5.2. Intermediate sanctions.** The department is authorized to impose one or more of the following intermediate sanctions when any of the circumstances listed in Section 5.3.1 are present and the department determines that a sanction is necessary and appropriate to ensure compliance with licensing rules to protect the children of a Child Care Facility or the general public:

**5.5.2.1.** The Child Care Facility may be directed to stop all new admissions until the department determines that corrective action has been taken.

**5.5.2.2.** The department may impose a financial penalty upon a Child Care Facility.

**5.6. Financial penalties.** The amount of any penalty to be imposed shall be calculated as follows:

**5.6.1.** Operation of a Child Care Facility without a license: not less than \$500 nor more than \$10,000 per day. Each day constitutes a separate offense.

**5.6.2.** Impeding, interfering, or giving false information in connection with the enforcement of laws or rules

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Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)  
governing licensure, \$500.00 per incident.

**5.6.3.** Violation of rules governing child-to-staff ratios outlined in these rules is a violation for which an administrative penalty not to exceed \$500.00 per incident or \$500.00 per number of children above the limitation set by rule, or both, may be adjudged.

**5.6.4.** Violation of rules governing records disclosure and confidentiality outlined in these rules commits a violation for which an administrative penalty not to exceed \$500.00 per incident or \$500.00 per number of children above the limitation set by rule, or both, may be adjudged.

**5.6.5.** Violation of Rights for Children in Child Care Facilities, Section10: \$50.00 per incident.

**5.7. Assessment of Penalties issued.** If the department assesses financial penalties, an Assessment of Penalties will be issued.

**5.7.1.** The Assessment must describe each violation found to have been committed by the Child Care Facility, the rule or law that has been violated and any scheduled amount of time corresponding to that violation.

**5.7.2.** If the licensee does not contest the imposition or amount of the penalty, the licensee must pay the department within thirty (30) days of receipt of the Assessment of Penalties.

**5.7.3.** If the licensee disagrees with the imposition or amount of the penalty, the licensee must notify the department, in writing, stating the nature of the disagreement, within ten (10) working days of receipt of the Assessment of Penalties.

**5.7.4.** The department shall schedule an informal conference to resolve the dispute and a written decision based on this conference will be provided. If the licensee is dissatisfied with the written informal conference decision, an administrative hearing may be requested in accordance with Section 7.

**5.8. Payment of penalties.** A Child Care Facility that is unable to immediately pay penalties may apply to the department for a delay in payment or installment payments or, in certain circumstances, to have the penalty reduced.

**5.8.1.** In order to have the payment delayed or paid in installments, a licensee must supply sufficient information to the department to demonstrate that immediate full payment of the total amount due would result in the interruption of the provision of necessary services to children.

**5.8.2.** In order to have a fine reduced, a licensee must supply sufficient information to the department to demonstrate that payment in full would result in a permanent interruption in the provision of necessary services to children.

**5.8.3.** The department is authorized to determine whether a licensee has supplied sufficient information to the department.

#### 10-148 CMR Ch. 32, Ch. I, § 6

### 6. SUBSEQUENT APPLICATION FOR A FULL LICENSE

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

**6.1.** Subsequent to any of the following actions, a subsequent application for a full license may be considered by the department when the deficiencies identified by the department at the time the action was taken have been corrected:

**6.1.1.** Issuance or voiding of a conditional license;

**6.1.2.** Refusal to issue or renew a full license;

**6.1.3.** Revocation or suspension of a full license; or

**6.1.4.** Refusal to issue a provisional license.

**10-148 CMR Ch. 32, Ch. I, § 7**

**7. APPEAL PROCEDURE**

**7.1. Request a hearing.** A person aggrieved by the department's decision to take any of the following actions, or to impose any of the following sanctions, may request an administrative hearing to refute the basis of the department's decision, as provided by the Maine Administrative Procedure Act, Title 5, Chapter 375. Administrative hearings will be held in conformity with the department's Administrative Hearing Regulations.

**7.2. In writing before deadline.** A request for a hearing must be made, in writing, to the Director of the Division of Licensing and Regulatory Services, and must specify the reason for the appeal. A request must be mailed within ten (10) working days from receipt of the department's decision to:

**7.2.1.** Issue a conditional license;

**7.2.2.** Amend or modify a license;

**7.2.3.** Void a conditional license;

**7.2.4.** Refuse to issue or renew a full license;

**7.2.5.** Refuse to issue a provisional license; or

**7.2.6.** Impose a fine.

**10-148 CMR Ch. 32, Ch. I, § 8**

**8. WAIVERS**

**8.1. Request for waiver.** The Commissioner or designee department may upon written request of any licensee or applicant waive or modify a provision of these rules, which is not mandated by Maine Statute. The licensee or applicant shall provide clear and convincing evidence, including at the request of the Commissioner or his/her designee, expert opinion which satisfies the Commissioner or his/her designee that the applicant or licensee's alternative method will comply with the intent of the rule for which waiver or modification is sought. Application for a waiver or modification must be made on forms supplied by the department and must include:

**8.1.1.** A statement of the provision for which waiver or modification is requested;

**8.1.2.** An explanation of the reasons why the provisions cannot be met and why a waiver or modification is being requested: and

**8.1.3.** A description of the alternative method proposed for meeting the intent of the provision sought to be waived or modified.

**8.2. Granting of waivers.** All requests shall be answered in writing and a record of them will be maintained by the department. Such waiver or modification shall be granted for a specific period of time not to exceed the period of the license. Prior to the expiration of the license, if the waiver or modification continues to be necessary, a new application for waiver or modification must be made. Extensions will only be granted where the best interest of the child(ren) is served.

## 10-148 CMR Ch. 32, Ch. I, § 9

### 9. ORGANIZATION and ADMINISTRATION

#### 9.1. Administration.

**9.1.1. Operation.** Child Care Facilities may be operated as for-profit or not-for-profit operations.

**9.1.2. Corporations.** A corporation, partnership, association, or trust shall identify the names and addresses of its officers, partners, trustees, or directors and shall provide, where applicable, the charter, partnership agreement, constitutions, articles of incorporation and by-laws or trust document.

**9.1.3. Licensee responsibility for the facility.** The licensee is responsible for the overall operation of the Child Care Facility.

**9.2. Other administrative responsibilities.** The applicant or licensee shall:

**9.2.1. Purpose.** Define the purpose of the service;

**9.2.2. Policies.** Develop policies and provide for their implementation. This must include, at a minimum, policies for

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)  
the following:

9.2.2.1. Child abuse reports

9.2.2.2. Child behavior guidance;

9.2.2.3. Children who are ill;

9.2.2.4. Financial policies for families;

9.2.2.5. Fire drill procedures;

9.2.2.6. Emergency procedures;

9.2.2.7. Business hours;

9.2.2.8. Staff qualifications and training;

9.2.2.9. Supervision of staff;

9.2.2.10. Reporting licensing violations;

9.2.2.11. Inclusionary practices for children with disabilities; and

9.2.2.12. Admission policy as outlined in Section 9.11 of these rules

**9.2.3. Responsibility.** The licensee is responsible for assuring that the facility's policies are followed. This includes:

9.2.3.1. Responsibility for establishing and maintaining a sound financial structure; and

9.2.3.2. Being qualified to administer the facility or have a qualified person to administer the facility.

**9.3. Administrative and other records.** The licensee shall maintain complete and accurate fiscal accounts, and required personnel records.

9.3.1. The licensee shall maintain children's records as required by Section 11.1.

9.3.2. Records required by Section 11 must be retained by the facility for a minimum of six (6) months after the child leaves care or the staff leaves.

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).



Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**9.3.3.** The licensee must keep a daily attendance list of all children. The list must be available for inspection by the Division of Licensing and Regulatory Services and be kept on site for six (6) months.

#### **9.4. Insurance.**

**9.4.1.** The Child Care Facility must carry a minimum liability insurance of \$100,000 per person, \$300,000 per occurrence; and a minimum of \$5,000 property damage.

**9.4.2.** Vehicle liability insurance, if transportation is provided, must be set at a minimum of \$20,000 per person, \$40,000 per accident.

**9.4.3.** A certificate of liability insurance must be submitted prior to the issuance of a license.

**9.5. Posting of license.** The licensee shall post, in a conspicuous place, in the facility any current license issued by the department.

**9.6. Posting of other notices.** The licensee shall post, in a conspicuous place in the facility, notice of the existence of environmental lead hazards and any other letters, notices or correspondence required by the department to be posted.

**9.7. Notification to the department.** The licensee shall notify the department of the following:

**9.7.1. Notification of legal proceedings.** The licensee shall report, in writing, to the department any legal proceeding whether criminal or civil (within 10 days of initiation of such proceedings) brought against him/her or any person employed by the facility or residing therein if such proceedings arise out of circumstances related to the care of children in the facility or may affect the continued operation of the Child Care Facility or call into question the suitability of the director, operator, or staff members to care for children.

**9.7.2. Notification of change of owner/operator.** The licensee shall provide prior notification, in writing, to the department upon any change in ownership of the facility.

**9.7.3. Notification of change in director.** The licensee shall provide notification, in writing, to the department of any change in the person designated by the owner or the governing body as a qualified director of the facility.

**9.7.4. Notification of change in location.** The licensee shall provide notification, in writing, to the department of any change of location of the facility. The licensee shall submit an application for licensure of the new location. The licensee (applicant) may not operate a Child Care Facility until the department issues a new license for the new location.

**9.7.5. Notification for physical plant changes.** The licensee shall provide written notification to the department for any changes to the heating system, any structural alterations, or any plans to use existing space in the facility that have not been inspected and approved. This includes any physical or structural changes in the building(s) or on the grounds such as but not limited to remodeling, renovations, or installation of a swimming pool or wading pool.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**9.7.6. Notification of closure.** The licensee shall provide written notification of closure and expected date of closure of a facility to the department.

**9.8. Availability of Rules.** The facility must have a copy of these rules on the premises and must make them available to any person upon request.

**9.9. Transfer of license.** A license shall not be transferred from one licensee to another, from one facility to another, from one location to another, or from one owner to another.

**9.10. Responsibility of the facility to encourage parental involvement.**

**9.10.1. Responsibility to encourage parents to visit.** The facility shall permit and encourage parents to visit the child, to observe the program at any time that the child is present and provide opportunities to participate in activities.

**9.10.2. Responsibility to exchange information with legal guardians.** The licensee shall regularly exchange information with the legal guardian(s) about the child.

**9.10.3. Responsibility to advise regarding field trips.** The facility shall advise a child's legal guardian prior to taking children on field trips and shall require the legal guardian's written permission.

**9.10.4. Accessibility by telephone.** The facility shall be directly accessible to parents/legal guardians by telephone at all times when children are present.

**9.10.5. Availability of these rules to parents.** The licensee shall make available to parents and legal guardians a copy of these rules at the time of the child's admission to the facility.

**9.10.6. Responsibility to advise regarding high risk activities.** The facility must advise a child's parent or legal guardian prior to allowing the child to participate in any high risk activity, such as swimming, horseback riding or trampoline. The facility must obtain written authorization from the parent for the child to participate in any such activity. The statement must describe all types of high risk activities provided and the authorization must be updated at least annually and must list the child's name, type of activity, location of activity, parent's signature and date. For swimming or wading activities, the statement must describe the child's swimming ability.

**9.11. Admission and intake**

**9.11.1. Pre-admission visits.** The licensee shall encourage parents to visit the facility prior to admission.

**9.11.2. Admission policy.** All facilities must adopt a written description of admissions policies and criteria which must include:

**9.11.2.1.** Age range;

**9.11.2.2.** Services offered;

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

**9.11.2.3.** Fees (if any) including charges for late pick-up of children;

**9.11.2.4.** Vacation policy;

**9.11.2.5.** Terms of any contract or placement agreements; and

**9.11.2.6.** Hours of operation.

**9.12. Immunization records.** The facility shall require immunization records for enrolled children in accordance with Section 18.

**9.13. Childcare for children with special needs.** All Child Care Facilities must be in compliance with Americans with Disabilities Act (ADA) standards.

**9.13.1.** The licensee cannot require that the parent(s) of children with physical, emotional and/or mental disabilities furnish the facility with information pertaining to the child's disabilities, but is encouraged to ask pertinent developmental questions of all children prior to entrance to ensure appropriate and successful programming.

**9.13.2.** A Child Care Facility must ensure that all staff are adequately trained and/or have sufficient experience to meet the needs of all children for whom they are responsible.

**9.14. Confidentiality** Except as provided by law, confidential information may not be released without a court order or a written release from the person about whom the confidential information has been requested. The following information is confidential:

**9.14.1.** Information about children in care (or formerly in care) and services provided to them by the facility must be kept confidential and shall be disclosed only upon written authorization of a child's legal guardian., except as otherwise specified by law.

**9.14.2.** Information about children in care (or formerly in care) must be shared with the department and child placing agencies licensed pursuant to Title 22 M.R.S.A. chapter 1671, upon request.

**9.14.3.** All personnel records must be confidential but shall be provided to the department upon request according to Title 22 M.R.S.A chapter 1661.

**9.14.4.** Information that identifies, directly or indirectly, a reference, complainant or reporter of suspected licensing violations, pursuant to 22 MRSA § 7703 (2) (G).

**9.15. Employees with communicable diseases.** No facility shall knowingly employ or otherwise permit any person to serve therein, in any capacity, if such person has a communicable or contagious disease that would threaten the health and safety of the children, unless Standard Precautions reduce or eliminate exposure or risk to the children.

## 10. RIGHTS FOR CHILDREN IN CHILD CARE FACILITIES

**10.1. Right to freedom from abuse and neglect.** Children shall be free from mental, verbal, physical and/or sexual abuse, neglect and exploitation.

**10.2. Right to confidentiality.** Children's records and information kept by the Child Care Facility are confidential. Child Care Facilities must follow the rules regarding confidentiality in Section 9.14 of these rules.

**10.3. Right to freedom from harmful actions or practices.** Each child has the right to freedom from harmful actions or practices that are detrimental to the child's welfare, and to practices that are potentially harmful to the child.

**10.4. Right to a safe and healthy environment.** Each child has a right to an environment that meets the health and safety standards in these rules.

**10.5. Right to be free from discrimination.** A child shall be provided child care services without regard to race, age, national origin, religion, disability, sex or family composition.

**10.6. Right to consideration and respect.** Children shall be treated with dignity, consideration and respect in full recognition of their individuality. This includes the use of developmentally appropriate practices by the Child Care Facility.

**10.7. Right to be informed of services provided by the Child Care Facility.** A child's legal guardian shall be fully informed of items or services which are included in the rate they pay for childcare services.

**10.8. Right to information regarding the Child Care Facility's deficiencies.** A child's legal guardian has the right to be fully informed of findings of the most recent licensing review conducted by the department. The Child Care Facility must inform children's legal guardians that the licensing review results are public information and available for examination upon request. Legal guardians shall be notified in a timely manner by the Child Care Facility of any actions proposed or taken against the Child Care Facility by the department, including but not limited to, decisions to issue conditional licenses, refusal to renew a license or to impose fines or other sanctions.

**10.9. Right to a service plan.** Each child has the right to expect the licensee to assist him/her in implementing any reasonable plan of service developed with community or state agencies.

**10.10. Right to a variety of appropriate activities, materials and equipment.** Each child has a right to a variety of activities, materials, and equipment that meets the child's interests and capabilities.

**10.11. Mandatory report of rights violations.** Any person or professional who provides health care, social services or mental health services or who administers a Child Care Facility or program who reasonably believes that the rules pertaining to children's rights, and the conduct of childcare have been violated, must report this information to the Division of Licensing and Regulatory Services. Any person reporting suspected abuse and neglect shall report this information to Child Protective Intake Services, pursuant to Title 22 M.R.S.A chapter 1071 and Section 210f of these rules. Documentation must be maintained in the facility that a report has been made.

**10.12. Reasonable modifications and accommodations.** To afford individuals with disabilities the opportunity to participate in a childcare program, the Child Care Facility must act as follows:

**10.12.1.** The Child Care Facility must make reasonable modifications to their policies and practices to include children, parents and guardians with disabilities, unless to do so would be a fundamental alteration of their program.

**10.12.2.** The Child Care Facility must make the facility accessible to people with disabilities. Existing facilities must remove any readily achievable barriers, while newly constructed facilities and any altered portions of existing facilities must be fully accessible. If existing barriers can be easily removed without much difficulty or expense, licensees must remove those barriers immediately even if there are no children with disabilities using the program. (Installing offset hinges to widen a door opening, installing grab bars in toilet stalls, or rearranging tables, chairs or other furniture are all examples of readily achievable barrier removal.)

## 10-148 CMR Ch. 32, Ch. I, § 11

### 11. RECORDS and REPORTS

#### 11.1. Child's record

**11.1.1.** A record must be completed at the time of admission and maintained by the Child Care Facility on each child in care and must include:

**11.1.1.1.** Name, birth date, street address and mailing address of the child;

**11.1.1.2.** Name, street address, mailing address and telephone number of parent(s) or legal guardian(s);

**11.1.1.3.** Places of employment of parent(s) or legal guardian(s), if employed;

**11.1.1.4.** The telephone number and street address and mailing address of parent(s)' or legal guardian(s)' employers;

**11.1.1.5.** A method of contacting the parent(s) or legal guardian(s) while the child is in care;

**11.1.1.6.** The name, street address and telephone number of a person other than the parent(s) or legal guardian(s) to contact in case the parent(s) cannot be reached in an emergency;

**11.1.1.7.** Copy of financial agreement (if any) with parent(s) or legal guardian(s);

**11.1.1.8.** Dates of enrollment and termination;

**11.1.1.9.** Record of immunizations, in compliance with Section 17.1;

**11.1.1.10.** Names, addresses and telephone numbers of the child's physician and dentist, if available;

**11.1.1.11.** Written authorization to obtain emergency medical care;

**11.1.1.12.** Names of persons who are permitted by the parent(s) or legal guardian(s) to remove the child from the facility;

**11.1.1.13.** A record of injuries sustained while in care of the facility, significant changes in appearance and/or hygiene, or significant changes in behavior (such as: increased aggression, withdrawal, sexual acting out, and/or prolonged tantrums) and other health conditions, if known;

**11.1.1.14.** Allergies and other health conditions, if known, and

**11.1.1.15.** Special needs, if any.

**11.1.1.16.** Written permission for participation in swimming or wading activities from each child's parent(s) or guardian(s) if swimming or wading activities are offered.

## **11.2. Personnel records**

**11.2.1.** A personnel record must be kept for each paid or unpaid, temporary or regular staff member, director, owner or administrator employed in the Child Care Facility. Parents who volunteer on a regular weekly basis working in the capacity of a paid staff member shall be included.

**11.2.2. Volunteers.** The facility must maintain a personnel record on volunteers with the exception of 11.2.3.2, 11.2.3.4, and 11.2.3.5 below.

**11.2.3.** The personnel record must contain:

**11.2.3.1.** Name, street and mailing address, birth date, social security number and telephone number;

**11.2.3.2.** Training, education, experience and other qualifications;

**11.2.3.3.** Written references or clear documentation of verbal contact, to include evaluation of employee's and volunteer's ability, character and suitability for work with children;

**11.2.3.4.** An annual evaluation of each employee's performance by the director or immediate supervisor signed by the employee and evaluator;

**11.2.3.5.** Dates of employment and termination. Reasons for termination must be kept in the employee record for a minimum of one year;

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**11.2.3.6.** A statement signed by each employee certifying that the licensing rules have been read and understood;

**11.2.3.7.** Record of SBI (State Bureau of Identification) criminal history report. This must be applied for prior to or at the time of employment;

**11.2.3.8.** Annual motor vehicle check for all persons employed in any Child Care Facility in a capacity involving the transporting of minors as stated in the Child Protection Act, Title 17 M.R.S.A. chapter 92;

**11.2.3.9.** Documentation of disciplinary action.; and

**11.2.3.10.** Immunization records as required by Section 17.1.4.

**11.2.4.** Personnel records must be available for inspection for licensing purposes by the Division of Licensing and Regulatory Services and Child Protective Services staff of the department according to Title 22 M.R.S.A. chapters 1661 and 1663.

## 10-148 CMR Ch. 32, Ch. I, § 12

### 12. PERSONNEL

#### 12.1. Staff requirements for all Child Care Facilities

**12.1.1. Student assistants or volunteers.** Students at least sixteen (16) years of age serving as assistants or volunteers in a child caring capacity need not be counted as children in care and shall not be counted as staff.

**12.1.2. Supervision of student assistants or volunteers.** Students in Section 12.1.1 above must be under the direct supervision and observation of a staff member.

**12.1.3. First aid and CPR.** There must be present at all times a staff member in each Child Care Facility who is currently certified in first aid and infant, child and adult Cardio Pulmonary Resuscitation (CPR).

**12.1.4. Assigned tasks.** Administrative and childcare staff must be able to perform their assigned tasks and meet all staff requirements in these rules.

**12.1.5. Exercise good judgment.** Childcare staff responsible for or assisting with the care of children in the facility and other paid or unpaid staff and volunteers shall be emotionally stable and mature, able to exercise good judgment in the handling of children and shall not engage in any action or practice that may be deemed detrimental to the welfare of the children.

**12.1.5.1. Detrimental actions or practices.** Actions or practices that may be deemed detrimental to the welfare of children or that are potentially harmful to children are strictly prohibited.

**12.1.5.2.** Such actions or practices as defined by the Division of Licensing and Regulatory Services include but are not limited to the following:

**12.1.5.2.1.** Corporal punishment, as defined in Section 1.6;

**12.1.5.2.2.** Use of a stick or other instrument in disciplining a child;

**12.1.5.2.3.** Sexual abuse;

**12.1.5.2.4.** Lack of supervision;

**12.1.5.2.5.** Neglect in any form;

**12.1.5.2.6.** Withholding food or drink;

**12.1.5.2.7.** Derogatory remarks to or about children or parents;

**12.1.5.2.8.** Name calling;

**12.1.5.2.9.** Shaming or embarrassment;

**12.1.5.2.10.** Unusual confinement; or

**12.1.5.2.11.** Rough handling.

**12.1.6. Reporting requirement.** The applicant or licensee shall immediately report to the department the following information regarding themselves and information known to them about other persons residing or employed in the facility:

**12.1.6.1. Convictions.** Any convictions for sexual or violent crimes involving adults or activities which could have resulted in convictions for such crimes if prosecuted;

**12.1.6.2. Crimes involving children.** Any crimes involving children or activities which could have resulted in convictions for such crimes if prosecuted;

**12.1.6.3. Substance abuse.** Any admission to a substance abuse treatment facility, or conviction within the past five years of OUI (operating under the influence of intoxicants or with an excessive blood-alcohol level) or for any other activity which involves substance abuse;

**12.1.6.4. Hospitalization.** Any serious physical or mental health problems that have required admission to a hospital



Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)  
or other inpatient facility;

**12.1.6.5. Allegations of child abuse.** Whether Child Protective Services or the Out-of-Home Investigations Unit of the Division of Licensing and Regulatory Services has ever investigated the applicant or licensee or other individuals who may have contact with the children in care for allegations of child abuse or neglect;

**12.1.6.6. License suspension.** Any prior conditional licenses, license suspension, fine and/or revocation regarding a child or adult care license or approval issued to the applicant;

**12.1.6.7. Removal of children from care.** The removal of children from their care or custody by court order; and

**12.1.6.8. Other information.** Any other information regarding their circumstances or treatment of children that is relevant to the department's decision to issue a license.

**12.1.7. Written release.** If such information as described above exists, the Child Care Facility license applicant or licensee shall furnish the department with written releases permitting the department to obtain information regarding any of the above from appropriate officials or persons to determine whether there is a present threat to the health, safety and welfare of children.

**12.1.8. Licensing decision.** In deciding what action to take regarding a license under the foregoing circumstances, the department shall make a determination if sufficient evidence has been presented by the applicant or licensee to indicate that the problems which resulted in any of the above have been adequately resolved so that the applicant or licensee or other persons residing in or employed in the facility will be in compliance with applicable law and rules.

#### 10-148 CMR Ch. 32, Ch. I, § 13

### 13. STAFF CHILD REQUIREMENTS

#### 13.1. Children under six weeks and staff member's children

**13.1.1. Children under six (6) weeks of age.** No child under six (6) weeks of age, as verified by a birth certificate, shall be cared for in a Child Care Facility.

**13.1.2. Children of staff members.** Children of staff members shall be counted in the appropriate age groups when in care at the facility.

#### 13.2. Supervision

**13.2.1. Supervision for each child.** Each child, during both indoor and outdoor times, shall be supervised by a childcare staff member who is aware of and responsible for the ongoing activity of each child and who is near enough to the child to intervene when needed.

**13.2.2. Supervision while napping.** The facility must provide supervision to children during napping and/or

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

sleeping hours and at all other times by awake staff.

**13.2.3. Crying children.** A child crying or crying out shall be attended to.

**13.2.4. Emergency plan.** When only one provider or staff member is present at the facility there must be a plan for obtaining help in an emergency.

### **13.3. Other staffing requirements and responsibilities**

**13.3.1. Responsibility for compliance with these rules.** The on-site director or head teacher shall be responsible for the facility's daily operation in compliance with these rules.

**13.3.1.1.** If the director is absent from the facility, a responsible staff member shall be designated to be in charge and be given authority to administer the facility in compliance with these rules.

**13.3.1.2.** In a facility licensed for fifty (50) or more children, if the director is absent, a staff member who meets director/head teacher qualifications shall be designated to be in charge and be given authority to administer the facility in compliance with these rules.

**13.3.2.** The facility licensed for 13-20 must employ at least one group leader (see Sections 1.12 and 27.7.2) who may be the same person as the director/ head teacher. Aides or assistants may be employed to complete the ratios.

**13.3.3.** The facility licensed for 21-49 or fifty (50) or more must employ one group leader (see Sections 1.12 and 27.7.2) per group of children. Aides or assistants may be employed to complete the ratios.

## **10-148 CMR Ch. 32, Ch. I, § 14**

### **14. TRAINING**

**14.1. Pre-service orientation.** All childcare providers shall orient new staff, including volunteers, prior to or during the first week of services in the following:

**14.1.1.** *Rules for the Licensing of Child Care Facilities;*

**14.1.2.** The facility's programs and policies; and

**14.1.3.** Fire drill and other emergency procedures.

**14.2. Documentation of training.** The facility must document all pre-service training and show documented evidence of ongoing training of all staff.

**14.3. Volunteers and substitutes.** The facility must provide orientation to volunteers and substitutes to enable them to carry out their assigned tasks.

10-148 CMR Ch. 32, Ch. I, § 15

15. PROGRAM DESCRIPTION AND SCHEDULE

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**15.1. Program description and schedule.** The facility must describe its program in writing. The following must be included:

**15.1.1.** Ages of children served;

**15.1.2.** Hours of operation;

**15.1.3.** Numbers of children served;

**15.1.4.** A description of what the program offers children, such as:

**15.1.4.1.** Basic childcare, care for children with special needs, part-time care, infant/toddler care, pre-school care, school-age care, etc.

**15.1.4.2.** Specific focus if applicable (i.e., educational focus, religious focus, Montessori, High Scope, etc.);

**15.1.5.** Opportunities for parent involvement;

**15.1.6.** A description of the child guidance methods used by staff;

**15.1.7.** A sample daily activities schedule which must be posted at the facility and provided to the Division of Licensing and Regulatory Services. The schedule must include the following as appropriate to the hours of operation:

**15.1.7.1.** Times for meals/snacks;

**15.1.7.2.** Time for sleep, rest, or quiet time;

**15.1.7.3.** A period of time for indoor and outdoor activities appropriate to the developmental needs of the children;

**15.1.7.4.** When necessary, modifications shall be made in the schedule.

**15.2. Indoor and outdoor activities**

**15.2.1.** Children in attendance for more than four (4) hours shall have an opportunity for rest of one (1) hour or longer according to the age and needs of the child.

**15.2.2.** There shall be a period of rest or relaxation for at least ten (10) minutes in a program of four (4) or fewer hours.

**15.2.3.** All children shall have a minimum of thirty (30) minutes out of doors each morning session and each afternoon session of more than three and one half (3 ½) hours or more, weather permitting. Gross motor activity will be substituted for outdoor time when weather does not permit outdoor time.

**15.2.4.** Television, video viewing and/or use of the computer shall be educational and age appropriate. Television viewing shall be limited to one (1) hour or less per classroom per day.

**15.2.5.** Activities shall be developmentally appropriate.

**15.2.6.** Toileting shall take place based upon individual needs.

### **15.3. Materials and equipment**

**15.3.1. Toys and play equipment.** The facility shall provide toys and equipment for indoor and outdoor activities appropriate to the ages and the numbers of the children. Materials provided and employed shall include a selection from the following areas:

**15.3.1.1.** For infants, a variety of toys, music and books designed to stimulate curiosity, small and large muscle development, hand-eye coordination, and the senses of sight, sound and touch;

**15.3.1.2.** For toddlers and preschool children, sufficient variety to offer activities in the following areas:

**15.3.1.2.1.** blocks;

**15.3.1.2.2.** housekeeping and dress-up;

**15.3.1.2.3.** books and language;

**15.3.1.2.4.** arts and crafts;

**15.3.1.2.5.** puzzles, games and manipulatives;

**15.3.1.2.6.** sensory activities (such as sand and water);

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

15.3.1.2.7. science and nature;

15.3.1.2.8. music; and

15.3.1.2.9. toys, equipment and space that encourage gross motor development.

**15.3.2. Extra clothing for pre-school children.** The facility serving pre-school age children shall have access to extra children's clothing in the event that clothes become soiled or damaged during the activities of the day.

**15.3.3. Materials and equipment for children.** Materials and equipment shall be appropriate for children enrolled, including those with special needs.

#### 15.4 Swimming and wading activities

**15.4.1 Policies and procedures regarding water activities and safety procedures.** The facility must develop policies and procedures regarding swimming and wading activities and safety procedures. Policies and procedures must cover all swimming or wading activities that take place at the child care facility and all swimming or wading activities away from the child care facility premises, e.g., at a public swimming pool or beach.

**15.4.2 Emergency Plan.** The facility must include in its policies and procedures a written emergency plan related to any swimming or wading activities, regardless of where they are conducted. The plan must be available to all staff. The plan must cover procedures for medical emergencies, chemical emergencies and severe weather.

**15.4.3 Emergency procedures.** For facilities with swimming pools on the premises, staff must be familiar with emergency procedures, the use of safety equipment and emergency contacts.

**15.4.3.1** Children must be reminded of the emergency procedures regularly.

**15.4.3.2** Emergency drills. For facilities with swimming pools on the premises, swimming pool emergency drills must be conducted at least once a month in any month during which the pool is used. These drills must be conducted according to policies and procedures that are posted in the swimming area. The facility must keep a written record of the type, date, time and duration of the training and drills.

**15.4.4 Pool safety rules.** For facilities with swimming pools on the premises, legible safety rules for the use of swimming pools must be posted in a conspicuous location, and must be read and reviewed weekly by each staff member responsible for the supervision of children.

**15.4.5 Basic water safety instruction for children.** Before initially entering the water, all children must be instructed on all water safety measures.

**15.4.6 Safety checklist.** For facilities with swimming pools on the premises, the facility must complete a checklist on any day on which a pool activity occurs. A checklist will be supplied by the department, and must be signed by the individual responsible for swimming or wading activities on that day.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**15.4.7 Water safety attendant on duty.** The child care facility must have an appropriately trained water safety attendant, as required by these rules, present at all times during swim instruction or other swimming or wading activities.

**15.4.7.1 More than 4' deep.** Swimming pools that are more than four (4) feet deep at any point shall comply with the following:

**15.4.7.1.1** For pools more than sixteen feet (16') wide, a lifeguard must be on duty. A copy of the lifeguard's current Lifeguard Training Certificate must be on file in the facility.

**15.4.7.1.2** For pools that are sixteen feet (16') wide or less, if a non-swimming rescue is not feasible, a lifeguard must be on duty.

**15.4.7.1.3** For pools that are sixteen feet (16') wide or less, if a non-swimming rescue is feasible, the water safety attendant must have completed within the past three (3) years a basic water safety course that includes training in non-swimming rescue techniques in a program of instruction approved by the department. A copy of the current training certificate must be on file in the facility.

**15.4.7.2 More than 2' and less than 4' deep.** For swimming pools that are more than two feet (2') and less than four (4) feet deep at the deepest part, a water safety attendant must be on duty. The water safety attendant must have completed a department-approved basic water safety course that includes training in non-swimming rescue techniques. A copy of the current training certificate must be on file in the facility.

**15.4.7.3 Wading pools.** For wading pools, a water safety attendant must be on duty. The water safety attendant must hold a valid CPR certificate and a valid first aid certificate.

**15.4.7.4 Off-site water activities.** For water activities away from the child care facility premises, the child care facility must provide an adequate number of water safety attendants, including lifeguards, as required by these rules, if the wading pool, swimming pool, beach, or water park operator does not, as well as comply with all applicable sections of these rules.

**15.4.7.5 Use of lakes and ponds.** For the use of lakes and ponds away from the child care facility premises, the child care facility must comply with all applicable sections of these rules, including the following:

**15.4.7.5.1 Parental permission.** Prior to allowing a child to participate in water activities in lakes and ponds, the child care facility must have written permission from the parent or legal guardian. The department-approved parental permission form shall describe the water activities offered at lakes and ponds, the child's swimming ability and shall include the child's name, location of the lake or pond, the parent's signature and date. At least annually, the written parental permission form must be updated, signed and dated by the parent or legal guardian. The signed and dated parental permission form must be placed in the file maintained by the child care facility for each child's records.

**15.4.7.5.2 Parental notice that no lifeguard is on duty.** A child care facility that offers water activities at lakes and ponds when there is no lifeguard on duty must give a department-approved written notice to each child's parent or legal guardian that there will be no lifeguard on duty at lakes and ponds

**15.4.7.5.3 Water safety plan.** The child care facility must have a written water safety plan for water activities at lakes and ponds that includes the following:

**15.4.7.5.3.1** The same staff-to-child ratios for swimming pools at Section 15.4.9 in these rules, must apply to activities at lakes and ponds.

**15.4.7.5.3.2** When no lifeguard is on duty, no fewer than 2 staff persons who are at least 18 years of age must be present at all times during water activities at lakes and ponds. When there is a lifeguard on duty at the lake or pond, the requirements of Section 15.4.9 apply.

**15.4.7.5.3.3** Whether there is a lifeguard on duty or not, at all times during water activities at lakes and ponds at least one staff person present at the lake or pond must be an appropriately trained water safety attendant. When there is no lifeguard on duty, the appropriately trained water safety attendant is a person who has completed a department-approved basic water safety course that includes training in non-swimming rescue techniques. At no time do these rules require that a lifeguard be on duty at lakes and ponds during water activities.

**15.4.7.5.3.4** Whether there is a lifeguard on duty or not at the lake or pond, prior to any child entering the water, the child care facility must ensure that a barrier, such as a roped-off area with buoys, is in place that limits the swimming area in the lake or pond to an area that is no wider than 16 feet across at any point and partitions off a part of the water that is no deeper than 4 feet at any point.

**15.4.7.5.3.5** When there is no lifeguard on duty at the lake or pond, all children 8 years of age and younger must wear a Coast Guard approved flotation device, properly fitted for age and weight, in the water at all times except during swim instruction programs. When there is a lifeguard on duty at the lake or pond, the requirements of Sections 15.4.1. and 15.4.11 apply.

**15.4.7.5.3.6** When there is no lifeguard on duty at the lake or pond, all children over 8 years of age must wear a Coast Guard approved flotation device, properly fitted for age and weight, in the water at all times unless the child has taken swimming lessons and can demonstrate the ability to swim. During swim instruction programs the child does not need to wear a flotation device. When there is a lifeguard on duty at the lake or pond, the requirements of Sections 15.4.1. and 15.4.11 apply.

**15.4.8 Constant supervision.** Staff must directly supervise children at all times. Children must be within sight and sound of staff.

**15.4.9 Staff-to-child ratios.** The staff-to-child ratio must be maintained at all times.

**15.4.9.1** If the pool is more than four (4) feet deep at any point, only adults who can swim may be counted in the staff-to-child ratios.

**15.4.9.2** For swimming pools, water safety attendants, including lifeguards, and swimming instructors do not count toward staff-to-child ratios. Water safety attendants, including lifeguards, must be stationed outside and next to the swimming pool.

**15.4.9.3 Exception.** If three (3) or fewer children are in the swimming pool and the water safety attendant is stationed outside and next to the swimming pool, the water safety attendant may count toward the staff-to-child

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)  
ratio.

**15.4.9.4 Wading pools.** For wading pools, water safety attendants may count toward staff-to-child ratios.

**15.4.10 Identification of non-swimmers.** All non-swimmers must be clearly identified as non-swimmers in a way that is visually and easily recognized by water safety attendants, including lifeguards, and staff. Commonly used identifiers are specified bathing suits or caps, wristbands or colored zinc-oxide sun block. Personal flotation devices of any kind shall not be used as identifiers.

**15.4.11 Approved flotation devices.** All non-swimmers, when in water over their waists, must be protected by a Coast Guard approved flotation device properly fitted for age and weight, except during swim instruction programs.

**15.4.12 Swim instruction program design.** Swim instruction programs must be designed by a water safety instructor currently certified by the American Red Cross or other department-approved water safety instructor program to ensure that the program is age appropriate and safe, including the use of appropriate flotation devices, if any. Other swimming or wading activities are not required to be planned by a certified swim instructor.

**15.4.13 Training for on-site directors.** On-site directors must take a department-approved course in basic water safety that includes training in non-swimming rescue techniques.

## 10-148 CMR Ch. 32, Ch. I, § 16

### 16. CHILD GUIDANCE

Green  
& Blue

#### 16.1. Child guidance

**16.1.1. Positive methods of child guidance.** Staff must use positive methods of child guidance which encourage self-control, self-direction, self-esteem and cooperation. Child guidance must meet the individual needs of each child.

**16.1.2. Consistent and reasonable application of rules.** Rules, expectations and limits must be applied consistently and carried out in a manner consistent with a child's developmental ability.

**16.1.3. Constructive methods of guidance.** The Child Care Facility must use only constructive methods of guidance. This may include, but is not limited to, interventions such as conflict resolution, encouraging the use of language skills, redirecting, providing choices, using praise or positive reinforcement, recognizing a child's strengths, and allowing for individual differences.

**16.1.4. Corporal punishment.** Corporal punishment as defined in Section 1.6 in these rules is strictly prohibited.

**16.1.5. Shaming.** Shaming and embarrassment must not be used.

**16.1.6. Withholding food.** The withholding of food, drink, or rest must not be used as punishment or threat of

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Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)  
punishment.

**16.1.7. Forced to eat.** No child shall be forced to eat or drink against his/her will.

**16.1.8. Soiling, wetting.** No child shall be punished for soiling, wetting, or not using the toilet.

**16.1.9. Cruel punishment.** No child shall be subjected to cruel or severe punishment, humiliation, verbal abuse or unusual confinement.

**16.1.10. Adaptive equipment.** The withholding of any adaptive equipment that would result in loss of a child's independence must not be used.

**16.1.11. Detrimental practice.** No child shall be subjected to an action or practice detrimental to the welfare of children as defined in Section 12.1.5.

10-148 CMR Ch. 32, Ch. I, § 17

## 17. HEALTH/MEDICAL

### 17.1. Immunization

**17.1.1. Certificate of immunization for children.** For each child who is not attending public or private school, the facility must require and have on file, within thirty (30) days of the child's first admission to the facility, and updated annually thereafter, a Certificate of Immunization that clearly illustrates each child's present immunization status. Each child's record must reflect an up-to-date status according to the Day Care Immunization Standards, developed by the Maine Center for Disease Control and Prevention.

**17.1.1.1.** Dates of immunization (month/day/year) and vaccine type must be on file for each of the following vaccine-preventable diseases:

**17.1.1.1.1.** Measles;

**17.1.1.1.2.** Mumps;

**17.1.1.1.3.** Rubella;

**17.1.1.1.4.** Diphtheria;

**17.1.1.1.5.** Pertussis;

**17.1.1.1.6.** Polio;

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

**17.1.1.1.7.** Tetanus;

**17.1.1.1.8.** Haemophilus influenzae Type b;

**17.1.1.1.9.** Varicella;

**17.1.1.1.10.** Hepatitis B; and

**17.1.1.1.11.** Pneumococcal conjugate;

**17.1.2. Blood test demonstrating immunity.** A blood test demonstrating immunity to measles, mumps, and rubella may be provided as proof of immunity. Evidence of this must be kept on file, and updated in a timely manner.

**17.1.3. Exceptions to proof of immunity.** No child shall be required under this rule to have any such immunization if his/her parent(s) states in writing a sincere religious or philosophical belief that it is contrary to the immunization requirements of this rule or if the child's physician submits documentation that immunization against one or more of the diseases is medically inadvisable. A written statement must be included in the record of any child for whom such an exemption is being claimed. In the event of a disease outbreak, children not vaccinated for religious, philosophical, or medical reasons must be excluded from the program until the outbreak no longer exists, or until the child receives the necessary immunization.

**17.1.4. Certificate of immunization for staff.** For staff born after 1956, the facility must obtain and have available a Certificate of Immunization for measles, mumps, rubella, tetanus and diphtheria. A laboratory blood test proving immunity may also be accepted. Documentation of immunity against measles, mumps and rubella is not required for staff born prior to 1957. No person shall be required to provide such documentation if she/he provides in writing the opposition for sincere religious or philosophical reasons or provides written documentation from a physician that such immunization is medically inadvisable.

**17.1.5. Documenting exemptions to immunization.** The facility must maintain a list of children and staff exempted for religious, philosophical or medical reasons.

**17.1.6. Immunization records and reporting requirements.** The facility must make immunization records available to the Department of Health and Human Services, Maine Center for Disease Control and Prevention, upon request.

## **17.2. Medical statement**

**17.2.1. Request for physician's or psychologist's report.** When the department has reasonable cause to believe that the applicant, or a person employed or residing in the facility may have a physical or mental health problem which would have a detrimental impact on the care of children, which may include, but is not limited to substance abuse and/or addiction, or chronic or contagious illness, the department may request the applicant or licensee to provide the department with a physician's or psychologist's report. This report must include a diagnosis of any physical or mental conditions and the professional's assessment of the impact or the effect of the condition and its treatment on the functioning of such individual.

**17.2.2. Exceptions to undergoing evaluations.** No person shall be required to undergo a physical examination or other evaluation if he or she states in writing that it is contrary to his or her sincere religious or philosophical teachings and practice, unless there is probable cause to suspect that he or she manifests the symptoms of a disease or illness which may affect the health, safety, or welfare of a child in care.

### **17.3. Health care consultation**

#### **17.3.1. Health consultation requirements for facilities licensed for thirteen (13) or more children:**

**17.3.1.1.** The facility must have a written agreement with a physician, a nurse practitioner, physician's assistant, or nurse with pediatric or childcare experience to serve as a health consultant.

**17.3.1.2.** The facility must have a written plan approved by the health care consultant which must include:

**17.3.1.2.1.** Evidence of access to emergency medical services;

**17.3.1.2.2.** Prevention and control of communicable diseases;

**17.3.1.2.3.** Policy on administration of medication in compliance with Section 17.6, including identification of staff members permitted to dispense medication and procedures for documentation of the administration or dispensing of medication; and

**17.3.1.2.4.** Provision of training to all facility staff in the facility's health care plan.

**17.3.2. Health consultation requirements for facilities licensed for three (3) to twelve (12) children.** The facility licensed for 3-12 children must ensure that a manual of written guidelines for the prevention and control of communicable diseases and other appropriate health practices for Child Care Facilities of this size be available to and read and understood by all staff.

### **17.4. Disease surveillance**

**17.4.1. Daily observation.** The facility must observe the child each day at the time of arrival and throughout the child's stay for obvious signs of illness such as fever, diarrhea, vomiting, or skin rashes.

**17.4.2. Apparent illness of a child.** In the event of an apparent illness of a child, the facility must follow appropriate health practices.

**17.4.2.1.** The facility licensed for 3-12 children must comply with Section 17.3.2, above.

**17.4.2.2.** The facility licensed for 13 or more children must follow its written health care policy statement.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**17.4.2.3 Maine CDC notification.** When a Child Care Facility is aware of a notifiable condition, the director or designee must notify the Maine Center for Disease Control and Prevention immediately for Category 1 conditions and within 48 hours for Category 2 conditions. Notify the ME CDC by telephone (1-800-821-5821 or 207-287-6582) or fax (1-800-293-7534). For a list of Category 1 and 2 notifiable conditions, see *Rules for the Control of Notifiable Conditions, Chapter 2(J)*. <http://www.maine.gov/sos/cec/rules/10/144/144c258.doc>

## **17.5. Accidents and sudden illness**

**17.5.1. Notification of parent or legal guardian.** The facility must immediately notify the child's parent or legal guardian of any illness, serious injury or accident involving their child. An adult designated by the parent or legal guardian shall be notified immediately should the parent or legal guardian be unavailable at the time of emergency.

**17.5.2. Documentation of incidents.** The facility must document all accidents, injuries, or emergencies in the child's record on the day of the occurrence and make such reports available to the parent or legal guardian.

## **17.6. Administration of medication**

**17.6.1. Written orders required.** The facility shall administer prescription medication only upon written order from a physician or according to the labeled instructions on the original medicine container and with a written, signed and dated request from the parent or legal guardian.

**17.6.2. Recording the administration of medications.** The facility must record the administration of all medications, including the amount, time, date and signature of the administrator of the medication.

**17.6.3. Nonprescription medications.** The facility must not administer any nonprescription medications to a child without written, signed and dated parental permission naming the medication and dosage. Verbal permission is allowed in emergencies if the provider makes a written note and then gets written permission from the parent as soon as possible.

10-148 CMR Ch. 32, Ch. I, § 18

## **18. ENVIRONMENT AND SAFETY**

### **18.1. General condition of the facility and surrounding premises.**

**18.1.1.** The facility and surrounding premises must show evidence of routine maintenance. Repair of wear and tear must be made in a timely fashion.

**18.1.2.** The facility must take immediate steps to correct any condition in the physical facility or on the premises, which poses a danger to children's life, health, or safety.

### **18.2. Code compliance**

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**18.2.1. Local codes and ordinances.** The facility must maintain, and provide to the department on request, documentation that indicates that the facility complies with local codes and ordinances, including zoning.

**18.2.2. State Fire Marshal's Office approval.** Prior to initial operation and on a biennial basis, the facility must receive approval from the State Fire Marshal's Office or designee.

**18.2.3. Satisfactory water.** The facility must, prior to initial operation and annually thereafter, submit a written satisfactory water analysis report completed by the Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health, or other approved laboratory, if the facility's water is from any source other than an approved public water supply.

**18.2.4. Satisfactory lead levels.** Child Care Facilities must have an annual screening for potential lead hazards. A facility may be exempt from this screening if:

**18.2.4.1.** The facility was constructed in 1978 or later;

**18.2.4.2.** The facility has been certified as lead-safe within the previous twelve (12) months;

**18.2.4.3.** The facility has been certified as lead-free; or

**18.2.4.4.** The facility does not serve any children under six (6) years of age.

**18.3. Sanitation, health, and safety.** The premises, toys, and equipment must be kept in a state of cleanliness and maintained in a condition ensuring health and safety.

Blue,  
Purple,  
Burgundy

**18.4. Buildings, space, furnishings and equipment**

**18.4.1. Minimum usable space.** The facility must provide a minimum net area of thirty-five (35) square feet of usable space per child.

**18.4.1.1.** Areas not to be calculated as usable space include but are not limited to: hallways, lockers, cubbies, door swings, closets, supply cabinets, corridors, bathrooms, teachers' spaces, food preparation areas, and offices.

**18.4.1.2.** The maximum child occupancy of any playroom must not exceed the usable space per child requirement at any time, except for large group activities as reflected in the written program schedule, required in Section 15.1.7.

**18.4.2. Heating, temperature**

**18.4.2.1.** A minimum temperature of at least sixty-eight (68) degrees measured within two (2) feet of the floor must be maintained for children's playrooms during the heating season.

**18.4.2.2.** Heating units must be safeguarded in a manner to prevent injuries and burns.

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**18.4.2.3.** Portable heaters, except those approved by the Department of Public Safety, State Fire Marshal's Office, are prohibited.

**18.4.2.4** If indoor temperatures exceed 82 degrees Fahrenheit, then measures must be taken to cool the children.

### **18.4.3. General safety**

**18.4.3.1.** All stairs used by children must be equipped with a solidly mounted handrail.

**18.4.3.2.** All stairs in areas used by infants, toddlers, and pre-school age children must be enclosed by walls or railings or protected by a gate or door.

**18.4.3.3.** Electrical outlets in areas used by infants, toddlers, and pre-school age children must be protected by safety caps, plugs, or other means.

**18.4.3.4.** Lead paint must not be used on toys, furniture or any interior surfaces.

**18.4.3.5.** All medications, cleaning supplies, toxic substances, matches, lighters, power tools, and items dangerous to children must be stored in such a way as to be inaccessible to children, even in rooms that are not used by children.

**18.4.3.6.** Weapons, firearms, and ammunition are prohibited in child care facilities.

### **18.4.4. Lighting and Ventilation**

**18.4.4.1.** Every room, hallway and stairway used by children must be well-lighted.

**18.4.4.2.** Natural light is required in any room in which any child's attendance exceeds four (4) hours per day.

**18.4.4.3.** Doors and windows used for ventilation must be equipped with securely fastened screens.

**18.4.4.4.** Every room, hallway, and stairway used by children must be adequately ventilated.

**18.4.4.5.** Smoking is prohibited on the premises when children are present. This includes all indoor and outdoor areas used by the facility, where children may be present

### **18.4.5. Furnishings**

**18.4.5.1.** Easily accessible and individual space must be made available for children's outside clothing and personal possessions.

**18.4.5.2.** A telephone (non coin-operated) in working condition must be available in the facility.

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

**18.4.5.3.** A separate mat, bed, or cot with blanket or sleeping bag must be provided to each toddler and pre-school age child in care for more than four hours per session.

**18.4.5.4.** At least two feet of space must be provided between mats, cots, and cribs when in use.

**18.4.5.5.** Mats, cots, and blankets must be assigned and labeled for each child or disinfected prior to use by a different child.

**18.4.5.6.** Cots, mats, and blankets must be kept clean.

**18.4.5.7.** The facility must assign each child his/her own toilet articles (toothbrush, brush, comb, etc.) and personal items (towel, drinking glass) when the use of such is offered.

#### **18.4.6. Toilet facilities**

**18.4.6.1.** One toilet and washbasin is required for every twenty (20) children.

**18.4.6.2.** A step, low platform or other means must be provided to children needing assistance in reaching toilets or washbasins.

**18.4.6.3.** Disposable paper products shall be utilized. Alternatively, clean individually assigned washcloths and towels may be distributed for a maximum of one day's use.

**18.4.6.4.** Washing and toilet facilities with both hot and cold running water and soap must be provided.

**18.4.6.5.** Water supply and sewage disposal must meet the standards of the Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health.

**18.4.6.6.** The facility must provide a means of maintaining a water temperature of 120° Fahrenheit or less in taps available for use by children.

**18.4.7. First aid.** The facility must be equipped with at least one easily accessible first aid kit and a current manual of first aid measures. The type and quantity of supplies is to be determined by current guidelines of the American Red Cross or other recognized health organization or by the facility's Health Consultant.

#### **18.5. Outdoor play area**

**18.5.1. Access to sufficient outdoor space.** The facility must have access to an outdoor play area with sufficient space for safe play for all children.

**18.5.2. Hazardous outdoor conditions.** Where hazardous conditions exist in the outdoor play area, the children

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

shall be protected from those conditions by fencing or other appropriate barriers.

**18.5.3. Outdoor supervision.** All parts of the playground must be under constant view of the supervising staff.

**18.5.4. Playground exits.** There must be an exit from the playground other than through a building.

**18.5.5. Surfaces.** Surfaces used under climbers, swings and at the bottom of slides must be energy absorbing material such as grass, mulch, sand, or bark. Concrete or asphalt must not be used.

**18.5.6. Safe outdoor play equipment.** Outdoor play equipment must be safely constructed and of a size suitable to the age and needs of all children. Play equipment, including pools, must be adequately spaced apart to prevent injuries.

**18.5.7. Drainage.** Play areas must be well drained.

**18.5.8. Hazard free play area.** The play area must be free of hazards and inspected by staff daily, prior to children having access to the area.

**18.5.9. Sand or sawdust.** Sand or sawdust boxes or piles must be in a safe and sanitary condition.

**18.5.10. Sun and shade.** Outdoor play areas must provide both shade and sun.

**18.5.11. Safe equipment.**

**18.5.11.1.** All swings, climbing equipment, and slides must be securely fastened to the ground.

**18.5.11.2.** Commercially manufactured indoor/outdoor equipment specifically designed to be stable and safe without being fastened to the ground or floor shall be allowed under this rule.

## **18.6. Fire evacuation drills**

**18.6.1. Monthly fire drills.** Fire evacuation drills must be conducted at least once a month for all children and adults present using at least two (2) means of exit.

**18.6.2. Fire drill procedures.** Fire drills must be conducted according to policies and procedures that are posted in each room utilized by children.

**18.6.3. Record of fire drills.** A record of drills must be available for inspection by the Department of Health and Human Services, the Department of Public Safety, State Fire Marshal's Office, and local fire inspectors.

**18.7. Animals in the facility.** When animals are in a facility, supervision must be such to ensure that neither children nor the animals are injured. There must be proof of rabies vaccinations for household dogs and cats. Pets

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Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

must not present a danger to children or guests. The facility must be free of pet odors and waste must be disposed of regularly. All indoor and outdoor areas used by children must be free from pet waste.

## **18.8. Swimming Pools**

**18.8.1. Swimming pools must be registered.** On-premises swimming pools over twenty-four inches (24") deep at any point must be registered by the Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health.

**18.8.2. Swimming pool cleanliness.** Swimming or wading pools shall be cleaned and emptied daily or equipped with a filtration and/or treatment system.

**18.8.2.1.** The water in a swimming pool must have sufficient clarity. The bottom must be clearly visible in the deepest part of the pool.

**18.8.2.2.** Any facility that operates a swimming pool over twenty-four inches (24") deep at any point must be in compliance with Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health *Rules Relating to Public Swimming Pools and Spas*.

**18.8.3. Swimming pools when not in use.** Swimming or wading pools must be emptied or removed from play areas when not in use or must be otherwise protected by fencing or suitable barriers to prevent access by children without staff approval, observation and supervision.

**18.8.3.1.** All in-ground pools located in areas accessible to the children must be fenced. The fence must be at least four (4) feet in height and secured with a locked gate.

**18.8.3.2.** All above-ground pools must have non-climbable sidewalls that are at least four (4) feet high or must be enclosed with a fence in accordance with section 18.8.3.2 (above). When the pool is not in use, steps must be removed from the pool or otherwise protected to prevent unsupervised access.

**18.8.4. Emergency telephone.** All pools must have an accessible emergency telephone located in the pool area. The telephone must be able to dial directly for emergency assistance.

10-148 CMR Ch. 32, Ch. I, § 19

## **19. FOOD AND KITCHEN FACILITIES**

### **19.1. Meals and snacks**

**19.1.1. Well balanced meals and snacks.** The facility shall serve well-balanced meals and snacks.

**19.1.1.1.** Drinking water must be available to the children.

**19.1.1.2.** Snacks shall be simple and nourishing and include items such as milk, fruit or fruit juice and crackers.

**19.1.1.3.** Fruit juice or a milk substitute shall be offered to children prohibited from drinking milk for medical reasons.

**19.1.1.4.** Lunch, which includes a beverage, shall consist of food from each of the following groups:

**19.1.1.4.1.** Vegetables or fruit or both;

**19.1.1.4.2.** Meat, poultry, fish, cheese, eggs, or protein substitute;

**19.1.1.4.3.** Enriched bread or equivalent serving of cornbread, muffin, biscuit, pasta, noodles, rice, etc.;

**19.1.1.4.4.** Milk as a beverage. Fruit juice or a milk substitute shall be offered to children prohibited from drinking milk for medical reasons.

**19.1.1.5.** Each lunch and dinner and breakfast plus a snack served shall provide one third (1/3) of a child's daily nutritional requirements and meet the special dietary needs of each child. Food required by special diets may be provided by the center or may be brought to the center by the parents.

**19.1.1.6.** Portions of food served shall be suited to the child's age and appetite.

**19.1.1.7.** Information regarding children's allergies must be readily accessible to the food preparation staff, who will prepare food accordingly.

**19.1.2. Food supplied from outside the facility.** Box/bag lunches or other food supplied from outside the facility shall be kept refrigerated if required.

**19.1.3. Hand washing.** The facility shall be responsible for hand washing of all adults and all children immediately prior to snacks and meals.

**19.1.4. Supervision during mealtimes.** Children shall be under direct visual observation during mealtimes.

## **19.2. Kitchen facilities**

**19.2.1. Well lighted.** Kitchen areas shall be well-lighted, clean and orderly.

**19.2.2. Appropriate temperature.** All readily perishable food must be kept appropriately hot or cold.

**19.2.3. Perishable food.** All readily perishable food shall be kept at room temperature for no more than one hour while being prepared or served.

**19.2.4. Refrigerator temperature.** Refrigerators must be kept at a temperature not to exceed forty-one degrees (41°) Fahrenheit. A thermometer must be kept in the refrigerator at all times.

**19.2.5. Freezer temperature.** Freezers must be kept at a temperature not to exceed zero (0°) Fahrenheit. A thermometer must be kept in the freezer at all times.

**19.2.6. Milk products.** All milk products must be pasteurized.

**19.2.7. Preparation and eating surfaces.** All food preparation and eating surfaces must be washed before and after use.

**19.2.8. Staff hand washing.** Staff must wash their hands both before and after food handling or preparation.

**19.2.9. Dish washing.** Dishes must be washed in an automatic dishwasher or thoroughly washed in warm soapy water and rinsed in hot water.

**19.2.10. Paper products.** Paper products shall have a single use and must be disposed of immediately after use.

**19.2.11. Use of the food preparation area.** The food preparation area must not be used for other activities when food or drink is being prepared or served.

**19.2.12. Food storage.** All food must be stored, prepared and served in a sanitary manner.

**19.2.13. Cooked food.** All cooked foods must be cooked to proper temperatures. All reheated foods must be cooked to at least one hundred and sixty-five degrees (165°) Fahrenheit.

**19.2.14. Staff who are ill.** Staff who are ill must not work in the food preparation area. Staff with open sores that cannot be covered must not handle or prepare food.

**19.2.15. Transporting food.** When food is transported, sanitary containers must be used to keep hot food at or above at least one hundred and forty degrees (140°) Fahrenheit and cold food at or below 40° Fahrenheit.

**19.2.16. Children in meal preparation areas.** Children may be permitted in meal preparation areas only when under the direct supervision of a staff person present and there is no danger of injury from equipment.

**19.2.17. Hot foods and liquids.** All hot foods and liquids must be out of children's reach. A staff person who is cooking or drinking a hot beverage must not hold children.

**19.2.18. Heating formula, milk or food.** Formula, milk or food, if heated, must be served to children only after contents have been mixed, stirred or shaken and tested.

**19.2.19. Live animals.** Live animals must not be kept or allowed in areas where food or drink is being prepared.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**19.2.20. Sinks.** Proper sinks with approved plumbing and hot and cold water under pressure must be available in all rooms where food or drink is prepared or utensils are washed. Bathrooms are not to be used for preparing foods or washing dishes.

**19.2.21. Cleanable surfaces.** Surfaces coming into contact with food or drink must be easily cleanable, in good repair and must not be made of toxic material.

**19.2.22. Sanitary conditions.** Kitchen facilities must be maintained in a sanitary condition free of insects, rodents, dust and other contaminants.

**19.2.23. Wastewater pipes.** Wastewater pipes must not be located over food preparation, storage or serving areas.

**19.2.24. Food stored in the refrigerator.** Containers of food in the refrigerator must be labeled and dated. Food stored in the refrigerator, including lunch boxes, must be stored in such a manner so as to permit free circulation of cool air. All foods must be covered.

**19.2.25. Frozen foods.** Frozen foods shall be thawed in the refrigerator, under cold running water, or defrosted in the microwave oven.

**19.2.26. Washing fresh fruits and vegetables.** Fresh fruits and vegetables must be thoroughly washed before use.

**19.2.27. Food served to only one child.** Any food served to a child must not be served to another child.

**19.2.28. Preventing contamination.** All utensils, equipment and food must be stored in a clean, dry place free from insects, rodents, dust and other contamination and must be handled in such a manner as to prevent contamination.

**19.2.29. Disposing contaminated food.** All contaminated food must be disposed of promptly. Swelled, rusted, dented or leaky canned food or drink shall not be consumed and shall be disposed of promptly.

**19.2.30. Single-service utensils.** Single-service utensils must be used only once.

10-148 CMR Ch. 32, Ch. I, § 20

## 20. TRANSPORTATION

### 20.1. Vehicle Requirements

**20.1.1. Licensed driver.** Any person authorized by the facility to transport children shall be properly licensed to operate that class of vehicle.

**20.1.2. Training.** All staff and volunteers who transport children as part of their regular duties shall complete the department-approved children's transportation training.

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**20.1.3. Number of passengers.** The number of persons transported in any vehicle shall not exceed the seating capacity of the vehicle.

**20.2. Safety in vehicles.**

**20.2.1. Unattended vehicle.** No child shall be permitted to remain in any vehicle while it is unattended. Children must be seated with seat belts fastened or in child safety seats (when applicable according to State law) while vehicle is in motion.

**20.2.2. Seat belt.** The driver shall wear a seat belt.

**20.2.3. Back seat.** All children age twelve (12) and under shall ride in the back seat.

**20.2.4. One child per seat belt.** The buckling of more than one child in a single seat is prohibited.

**20.2.5. Adult to child ratios in vehicles.** There must be one (1) adult present for up to six (6) pre-school age children, infants or toddlers transported. Additional pre-school age children shall be supervised in accordance with staff/child ratios, Sections 26.1.1 and 28.2.

**20.2.6. Non-ambulatory children.** In addition, one (1) staff person or adult volunteer per every three (3) non-ambulatory children must be present in the vehicle.

**20.2.7. Limitations of vehicle requirements.** The vehicle requirements above shall not apply to vehicles not operated by the facility, such as school buses, taxis and vehicles operated by parents or public transportation agencies.

**20.2.8. Weapons in vehicles.** Weapons must not be transported in any vehicle in which children are riding.

**20.2.9. Child safety seats.** The following standards must be met regarding the use of car safety seats:

	<b>Hinfants</b>	<b>TODDLER</b>	<b>YOUNG CHILDREN (up to 8 years old)</b>
<b>WEIGHT</b>	Birth to 1 year or up to 22 lbs.	Over 1 year and Over 20 lbs up to 40 lbs.	Over 40 lbs.- up to 80 lbs.
<b>TYPE of SEAT</b>	Infant only or rear-facing convertible	Convertible / Forward-facing	Belt positioning booster seat
<b>SEAT POSITION</b>	Rear-facing only	Forward-facing	Forward-facing

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

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<b>ALWAYS MAKE SURE:</b>	Children to one year and at least 20 lbs. in rear-facing seats	Harness straps should be at or above shoulders	Belt positioning booster seats must be used with both lap and shoulder belt.
	Harness straps at or below shoulder level	Most seats require top slot for forward-facing	Make sure the lap belt fits low and tight across the lap/upper thigh area and the shoulder belt fits snug crossing the chest and shoulder to avoid abdominal injuries

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10-148 CMR Ch. 32, Ch. I, § 21

21. REPORTING CHILD ABUSE AND NEGLECT

**21.1. Mandatory reporting.** The facility must make all childcare personnel aware of their status and responsibility as mandated reporters to the Department of Health and Human Services when there is reasonable cause to suspect abuse or neglect of a child under the age of eighteen (18).

**21.1.1.** When reports are made in good faith, reporters are immune from civil or criminal liability for the act of reporting or participating in the investigation or proceeding.

**21.1.2.** The department will respect a reporter's request for confidentiality to the extent possible. The identity of reporters will not be revealed unless required to protect the child from serious harm.

**21.2. Policy for handling suspected instances of child abuse or neglect.** The facility must adopt written policy for handling suspected instances of child abuse or neglect in accordance with Maine law.

**21.3. Facility cooperation in investigations.** The facility staff shall cooperate in the investigation of allegations of abuse and neglect.

10-148 CMR Ch. 32, Ch. I, § 22

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**22. INFANT/TODDLER PROGRAM**

**22.1. Additional rules for infant/toddler programs.** In addition to the preceding rules, Infant/Toddler Programs serving children ages six (6) weeks to thirty-six (36) months must also comply with this section.

**22.2. Restriction to first floors.** Infant/Toddler programs are restricted to first floors or floors having direct exit at grade level.

**22.3. Promoting developmental needs.** The developmental needs of infants and toddlers shall be promoted in the following ways:

**22.3.1.** Each child shall be allowed to form and follow his or her own pattern of sleeping and waking periods;

**22.3.2.** Toys shall be large enough to prevent swallowing or choking;

**22.3.3.** Each infant/toddler's position and/or places shall be changed at least each half hour, when infant/toddler is awake;

**22.3.4.** Infants and toddlers shall spend time outdoors daily when weather permits;

**22.3.5.** Infants and toddlers may be combined in a group only when the total number does not exceed eight (8); and

**22.3.6.** Infants and toddlers shall not occupy the play area at the same time as older children.

#### **22.4. Feeding**

**22.4.1.** The facility shall be responsible for hand-washing of all adults and all infant and toddlers prior to all feedings.

**22.4.2.** Formula and breast milk must be labeled with the child's name, dated, stored in the refrigerator and discarded within forty-eight (48) hours. Frozen breast milk must be discarded within two (2) weeks.

**22.4.3.** No previously opened baby food jars shall be accepted at the Child Care Facility. Open jars shall be disposed of or returned to the parent the same day they are opened.

**22.4.4.** Formula shall be made from commercially prepared products.

**22.4.5.** The feeding schedule shall be in accordance with the infant's needs rather than according to the hour.

**22.4.6.** Infants shall be held for bottle-feeding.

**22.4.7.** If breast milk or formula is to be warmed, bottles shall be placed in a pan of hot (not boiling) water for no longer than five (5) minutes, after which the bottle shall be shaken well and the milk temperature tested before feeding. Bottles of formula or breast milk shall never be warmed in a microwave oven.

**22.4.8.** A chair or feeding table shall be provided as appropriate.

**22.4.9.** Dishes and nursing bottles used must be unbreakable.

### **22.5. Diapering/toileting**

**22.5.1.** Wet or soiled diapers and other clothing must be changed promptly.

**22.5.2.** Wet or soiled disposable diapers must be placed in a lined, lidded container, separate from other trash or garbage and separate from play or food preparation areas.

**22.5.3.** Children in diapers or other soiled or wet clothing shall be changed on a washable vinyl table or mat that is cleaned and sanitized after each use or has a disposable single use covering.

**22.5.4.** The changing table or mat shall be located in a designated area. The kitchen/food preparation area may not be used as a designated area.

**22.5.5.** Staff shall wash their hands and the child's with soap and warm running water after every diaper change.

**22.5.6.** Child Care Facilities using cloth diapers must comply with diapering guidelines available from the Department of Health and Human Services, Division of Licensing and Regulatory Services. Cloth diapers may be used only when the child has a medical reason that does not permit the use of disposable diapers (such as allergic reactions). The child's health care provider must document the medical reason. The documentation must be placed in the Child Care Facility's file.

**22.5.7.** All containers of soiled cloth or disposable diapers must be removed daily from the childcare areas.

### **22.6. Toileting practice**

**22.6.1.** The facility must inform parents as to its toilet training practice as it applies to their child.

**22.6.2.** Toileting practices must be developed by the family and staff, and must be based on the individual needs of the child.

**22.6.3.** Potty-chair receptacles, must be emptied, rinsed, and sanitized after each use.

### **22.7. Napping/resting**

**22.7.1.** Each infant/toddler shall be allowed to follow his/her own sleep/rest pattern.

**22.7.2.** Infants shall be placed on their backs for sleeping, unless contraindicated by a physician. Placing children on their abdomens for any reason shall be avoided, unless specifically instructed by the child's physician to do so.



**22.8. Cots, cribs and bedding**

**22.8.1.** A crib must be provided for each child up to eighteen (18) months of age.

**22.8.2.** No crib shall be used by more than one child at a time.

**22.8.3.** Each crib must be of sturdy construction with bars closely spaced to prevent injury.

**22.8.4.** Each crib must be equipped with a waterproof, firm, snug fitting mattress.

**22.8.5.** No child shall be placed directly on a waterproof crib mattress or crib mattress cover.

**22.8.6.** Restraining devices of any type must not be used in cribs.

**22.8.7.** Crib sides must be up while the child is in the crib.

**22.8.8.** Pillows are prohibited in cribs.

**22.8.9.** No double or multi-decked cribs may be used.

**22.8.10.** Cots and/or mats and cribs used by any infant or toddler must be cleaned and disinfected on a regular basis.

**22.8.11.** Sheets must be washed before being used by another child.

**22.8.12.** There must be at least one designated wheeled evacuation crib.

**10-148 CMR Ch. 32, Ch. I, § 23**

**23. SCHOOL-AGE CHILDCARE PROGRAM**

**23.1. Additional rules for School-Age Childcare Programs.** In addition to the preceding rules, School-Age Childcare Programs must comply with this section. School-Age Childcare Programs include (A) facilities licensed for thirteen (13) or more that include a School-Age Childcare Program, and (B) facilities licensed for twelve (12) or fewer that serve school-age children exclusively.

**23.1.1.** There shall be space, activities and equipment for group and individual activity;

**23.1.2.** Planned activities shall reflect an awareness of the social, emotional, physical and cognitive needs of older

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)  
children;

**23.1.3.** The program shall allow time for individual self-directed activity; and

**23.1.4.** All staff shall be at least seventeen (17) years old.

**23.2. Exemptions for Child Care Facilities located in school buildings.** Child Care Facilities located in school buildings, as defined by and approved by the Department of Education, shall be exempt from the following rules:

**23.2.1.** Section 11.1.1.9 (Immunization Records);

**23.2.2.** Section 18.2.1, 18.2.2, 18.2.3 (Code Compliance);

**23.2.3.** Section 18.4.3.2 (General Safety);

**23.2.4.** Section 18.4.4.3. (Window Screens);

**23.2.5.** Section 28.5.2. (Staffing); and

**23.2.6.** Sections.2.2.1, 27.2.3.1, 27.3.2.1, and 27.4.2.1. (Age of staff).

10-148 CMR Ch. 32, Ch. I, § 24

## 24. OCCASIONAL CARE PROGRAM

**24.1. Additional rules for Occasional Care Programs.** In addition to the preceding rules, Child Care Facilities providing Occasional Care Programs must comply with this section. Occasional Care Program means a Child Care Facility caring for children on a drop-in or otherwise irregular basis. For example, childcare located in a ski area or a shopping center.

**24.1.1.** The facility must have a procedure to ensure that a child is discharged only to the person who enrolls the child or by to another individual authorized by the parent or person who enrolls that child.

**24.1.2.** The facility must have a means of identifying each child by a nametag or other method while in care at the facility.

**24.1.3.** The facility must not administer any medications, prescription or non-prescription, to children in care.

**24.2. Exemptions for Occasional Care Programs.** Occasional Care Programs are exempt from the following:

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**24.2.1.** Section 11.1.1.9. (Immunization Record);

**24.2.2.** Section 11.1.1.3. (Place of parent employment);

**24.2.3.** Section 11.1.1.4 (Name, address, and phone number of parents' place of employment); and

**24.2.4.** Section 11.1.1.10 (Name, address, and phone number of child's physician and dentist).

## 10-148 CMR Ch. 32, Ch. II, § 25

### 25. Small Childcare Facilities

**25.1. Additional rules.** In addition to Chapter I, Small Childcare Facilities must comply with this chapter. Small Childcare Facility means a house or other place, not the residence of the operator, in which a person, or combination of persons, maintains or otherwise carries out a regular program, for consideration, for any part of the day providing care and protecting 3-12 children under the age of 13.

#### 25.2. Personnel

##### 25.2.1. Staff Qualifications for Facilities Licensed for 3 - 12 Children

**25.2.1.1. Director and/or Head Teacher qualifications.** The director and/or head teacher must be at least twenty-one (21) years of age, hold a current certification in first aid and Cardio Pulmonary Resuscitation (CPR) and meet the following requirements:

**25.2.1.1.1. Training.** Twelve (12) hours of training in healthy, safe environments; child development; observation and assessment; developmentally appropriate practice; guidance; relationships with families; individual and cultural diversity or business and professional development; childcare; and

**25.2.1.1.2. Experience.** At least six (6) months experience working in a childcare program or other children's program.

##### 25.2.2. Qualifications of other staff

**25.2.2.1.** All staff must be at least eighteen (18) years old.

**25.2.2.2.** All staff must have a high school diploma or equivalent or be attending high school or be enrolled in a GED (General Educational Development) preparation program.

**25.2.2.3.** All staff must demonstrate the following:

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**25.2.2.3.1.** The ability and willingness to comply with all applicable laws and rules;

**25.2.2.3.2.** The ability to provide safe and compassionate services; and

**25.2.2.3.3.** A history of honest and lawful conduct.

## 10-148 CMR Ch. 32, Ch. II, § 26

### 26. STAFF CHILD REQUIREMENTS, Small Childcare Facility

#### 26.1. Staff-Child Ratios for Small Childcare Facilities

**26.1.1. The maximum number of children to be assigned to one (1) adult.** The maximum number of children to be assigned to one adult, exclusive of service staff (clerical, cooking and maintenance) shall be as follows: (this includes pre-school children related to the operator or staff by blood, marriage or adoption)

**26.1.1.1.** If all children are under two (2) years of age, one staff may care for up to four (4) children;

**26.1.1.2.** One (1) staff may care for up to eight (8) children between the ages of two (2) years and five (5) years old plus two (2) children over the age of five (5) years;

**26.1.1.3.** One (1) staff may care for up to twelve (12) children who are over the age of five (5) years; or

**26.1.1.4.** One (1) staff may care for up to three children under the age of two (2) years, plus up three (3) children between the ages of two (2) and five (5) years, plus up to two (2) children over the age of five (5) years.

**26.1.2. The maximum number of children to be assigned to two (2) adults.** The maximum number of children to be assigned to two (2) adults, exclusive of service staff (clerical, cooking and maintenance) shall be as follows:

**26.1.2.1.** If all children are under two (2) years of age, two (2) staff may care for up to eight (8) children; or

**26.1.2.2.** Two (2) staff may care for up to twelve (12) children over the age of two (2) years old; or

**26.1.2.3.** Two (2) staff may care for up to six (6) children under the age of two (2) years, plus up to six (6) children over two (2) years old, for a maximum of twelve (12) total children.

**26.1.3. The maximum number of children to be assigned to three (3) adults.** The maximum number of children to be assigned to three (3) adults, exclusive of service staff (clerical, cooking and maintenance) shall be as follows:

**26.1.3.1.** Three (3) staff may care for up to twelve (12) children if all are under the age of two (2) years; or

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**26.1.3.2.** Three (3) staff may care for up to twelve (12) children if all are over the age of two (2) years; or

**26.1.3.3.** Three (3) staff may care for up to nine (9) children under the age of two (2) years, plus three (3) children over two (2) years old, for a maximum of twelve (12) total children.

**26.1.4. Combination of ages.** When there is a combination of ages within a group, the group size and the number of required staff shall be determined based on the age of the youngest child.

<b>AGE OF CHILDREN</b>	<b>1 STAFF -- MINIMUM STAFF TO CHILD RATIOS</b>	<b>2 STAFF -- MINIMUM STAFF TO CHILD RATIOS</b>	<b>3 STAFF -- MINIMUM STAFF TO CHILD RATIOS</b>
All children 6 weeks to 2 years old.	1:4	2:8	3:12
All children 24 months and older	1 staff for 8 children under five years; plus 2 children over five years	2:12	3:12
All children over 5 years old (school age)	1:12	2:12	3:12
Mixed ages	1 staff for 3 children under two years plus 3 children two to five years plus 2 children over five years. <b>Maximum is 6 plus 2 school age children total.</b>	2 staff for 6 children under 2 years plus 6 children over two years old. <b>Maximum is 12 children total.</b>	3 staff for 12 children including no more than 9 children under two years of age. <b>Maximum is 12 children total.</b>

**26.2. Staff training.** All Small Childcare Facilities must provide for twelve (12) hours of ongoing training per year for all childcare staff.

10-148 CMR Ch. 32, Ch. III, § 27

27. CHILDCARE CENTERS

**27.1. Additional rules.** In addition to Chapter I, Childcare Centers must comply with this chapter. Childcare Center means (1) a house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of the day providing care and protecting for thirteen (13) or more children under thirteen (13) years of age, or (2) a location or locations that are operated as a single childcare program or by a single person or persons who maintain or otherwise carry out a regular program, for consideration, for any part of the day providing care and protection for more than twelve (12) children.

**27.2. Personnel. Staff qualifications for facilities licensed for 13-20 children.**

**27.2.1. Director and/or Head Teacher qualifications.** The director and/or head teacher shall be at least twenty-one (21) years of age and meet one of the following:

**27.2.1.1. High school.** Graduation from an accredited high school or its equivalent and twelve (12) months of employment in a licensed Child Care Facility licensed for thirteen (13) or more children or twelve (12) months experience as the operator of a Child Care Facility licensed for three to twelve (3-12) (including Family Child Care), and twelve (12) hours training in healthy, safe environments; child development; observation and assessment; developmentally appropriate practice; guidance; relationships with families; individual and cultural diversity or business and professional development, childcare, early childhood education, topics related to operating a Child Care Facility, or other subjects related to the age or characteristics of children for whom care is planned.

**27.2.1.2. College courses.** Thirty (30) credit hours of college courses including six (6) credit hours in childcare, child development, childcare administration, behavioral sciences or closely related subjects and six (6) months experience (employment or college practicum) in a Child Care Facility licensed for 13 or more children or six (6) months experience (employment or college practicum) operating a Child Care Facility for three (3) to twelve (12) children.

**27.2.1.3. Credential.** Child Development Associate (CDA) as awarded by the CDA National Credentialing Program.

**27.2.2. Director or Head Teacher.** The facility must employ a minimum of one (1) director or head teacher. The director/head teacher may be the operator or licensee.

**27.2.3. Qualifications of other staff.**

**27.2.3.1.** All staff shall be at least eighteen (18) years old.

**27.2.3.2.** All staff shall have a high school diploma or equivalent or be attending high school or be enrolled in a GED (General Educational Development) preparation program.

**27.2.3.3.** All staff shall demonstrate the following:

**27.2.3.3.1.** The ability and willingness to comply with all applicable laws and rules;

**27.2.3.3.2.** The ability to provide safe and compassionate services; and

**27.2.3.3.3.** A history of honest and lawful conduct.

**27.2.3.4. Group leader qualifications.** Group leader qualifications must be in accordance with Section 27.5.2.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**27.2.4. Ongoing training.** Child Care Facilities licensed for 13-20 children must provide for all childcare staff as follows:

**27.2.4.1.** Staff scheduled to work 20 hours or less per week must have 18 hours of training per year.

**27.2.4.2.** Staff scheduled to work more than 20 hours per week must have 30 hours of training per year.

**27.3. Personnel. Staff qualifications for facilities licensed for 21 - 49 children.**

**27.3.1. Director and/or Head Teacher qualifications.** The director and/or head teacher shall be at least twenty-one (21) years of age and meet one of the following:

**27.3.1.1. Associate degree.** An Associate in Arts/Associate in Science (AA/AS) in Early Childhood Education; or

**27.3.1.2. AA/AS in related field.** An AA/AS with twelve (12) credits in Early Childhood Education or a related field and two (2) years direct childcare experience; or

**27.3.1.3. College credit and experience.** Thirty (30) college credits in Early Childhood Education with one (1) year direct childcare experience; or

**27.3.1.4. Credential and experience.** Child Development Associate (CDA) as awarded by the CDA National Credentialing Program with three (3) years direct childcare experience; or

**27.3.1.5. Experience and training.** Five (5) years direct childcare experience and one hundred and thirty-five (135) hours of training in healthy, safe environments; child development; observation and assessment; developmentally appropriate practice; guidance; relationships with families; individual and cultural diversity or business and professional development; childcare, early childhood education, topics related to operating a Child Care Facility; or other subjects related to the age or characteristics of children for whom care is planned.

**27.3.1.6. Program Directors.** Directors and/or head teachers of School-Age Childcare Programs (Section 23) shall have an AA/AS in Early Childhood Education or a closely related field such as elementary education, youth development, or recreation management or thirty (30) college credits in Early Childhood Education or a closely related field, such as elementary education, youth development, or recreation management or Section 27.3.1.4 or Section 27.3.1.5 above.

**27.3.2. Qualifications of other staff.**

**27.3.2.1.** All staff shall be at least eighteen (18) years old.

**27.3.2.2.** All staff shall have a high school diploma or equivalent or be attending high school or be enrolled in a GED (General Educational Development) preparation program.

**27.3.2.3.** All staff shall demonstrate the following:

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**27.3.2.3.1.** The ability and willingness to comply with all applicable laws and rules;

**27.3.2.3.2.** The ability to provide safe and compassionate services; and

**27.3.2.3.3.** A history of honest and lawful conduct.

**27.3.3. Group leader qualifications.** Group leader qualifications must be in accordance with Section 27.5.2.

**27.3.4. Ongoing training.** Child Care Facilities licensed for 21-49 children must provide for all childcare staff as follows:

**27.3.4.1.** Staff scheduled to work 20 hours or less per week must have 18 hours of training per year.

**27.3.4.2.** Staff scheduled to work more than 20 hours per week must have 30 hours of training per year.

**27.4. Personnel. Staff qualifications for facilities licensed for 50 or more children.**

**27.4.1. Director and/or Head Teacher qualifications.** The director and/or head teacher shall be at least twenty-one (21) years of age and meet one of the following:

**27.4.1.1. Degree in Early Childhood Education.** A Bachelor of Science/Bachelor of Arts (BA/BS) in Early Childhood Education; or

**27.4.1.2. Degree and experience.** An Associate in Arts/Associate in Science (AA/AS) in Early Childhood Education and three (3) years direct childcare experience; or

**27.4.1.3. AA/AS and experience.** AA/AS in a related field with eighteen (18) credit hours in Early Childhood Education and three (3) years direct childcare experience; or

**27.4.1.4. BA/BS and experience.** BA/BS in a related field with eighteen (18) credit hours in Early Childhood Education and three (3) years direct childcare experience; or

**27.4.1.5. Credential and experience.** Child Development Associate (CDA) as awarded by the CDA National Credentialing Program with five (5) years direct childcare experience; or

**27.4.1.6. Experience and training.** Seven (7) years experience and one hundred and eighty (180) hours of training in healthy, safe environments, child development; observation and assessment; developmentally appropriate practice; guidance; relationships with families; individual and cultural diversity or business and professional development; childcare, early childhood education, topics related to operating a Child Care Facility; or other subjects related to the age or characteristics of children for whom care is planned.

**27.4.1.7. School-Age Childcare Programs.** Directors and/or head teachers of School-Age Childcare Programs (Section 23) will have a BA/BS in Early Childhood Education or a closely related field such as elementary

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).



Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

education, youth development, or recreation management or an AA/AS in Early Childhood Education or a closely related field, such as elementary education, youth development, or recreation management and two (2) years experience or meet requirements in Section 27.4.1.5 and Section 27.4.1.6 above.

**27.4.2. Qualifications of other staff.**

**27.4.2.1.** All staff shall be at least eighteen (18) years old.

**27.4.2.2.** All staff shall have a high school diploma or equivalent or be attending high school or be enrolled in a GED (General Educational Development) preparation program.

**27.4.2.3.** All staff shall demonstrate the following:

**27.4.2.3.1.** The ability and willingness to comply with all applicable laws and rules;

**27.4.2.3.2.** The ability to provide safe and compassionate services; and

**27.4.2.3.3.** A history of honest and lawful conduct.

**27.4.3. Group leader qualifications.** Group leader qualifications must be in accordance with Section 27.5.2.

**27.4.4. Ongoing training.** Child Care Facilities licensed for fifty (50) or more children must provide for all childcare staff as follows:

**27.4.4.1.** Staff scheduled to work 20 hours or less per week must have 18 hours of training per year.

**27.4.4.2.** Staff scheduled to work more than 20 hours per week must have 30 hours of training per year.

**27.5. Other staff requirements for facilities licensed for 13 or more children.**

**27.5.1. Kindergarten.** If the Child Care Facility provides a kindergarten program, it must be staffed by a certified teacher.

**27.5.2. Group leader.** The group leader or person having the primary responsibility for a group of children in a facility with thirteen (13) or more children shall be at least eighteen (18) years of age and meet one of the following:

**27.5.2.1. Credential.** Child Development Associate (CDA) as awarded by the CDA National Credentialing Program.

**27.5.2.2. Experience.** Six (6) months experience working in a Child Care Facility licensed for 13 or more children.

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**27.5.2.3. College credits.** One year (30 credit hours) of college work including a course in a child related subject.

10-148 CMR Ch. 32, Ch. III, § 28

**28. STAFF CHILD REQUIREMENTS, Childcare Centers**

**28.1. Staff-child ratios**

**28.2. The maximum number of children to be assigned to one adult.** For all facilities licensed for thirteen (13) or more children, the maximum number of children to be assigned to one adult, exclusive of service staff (clerical, cooking and maintenance) must be as follows:

**28.2.1. Child Care Centers must maintain the following minimum adult to child ratios:**

AGE	STAFF TO CHILD RATIO	MAXIMUM GROUP SIZE
6 weeks - 1 year	1:4	8
1 year - 2 ½ years	1:4 1:5	12 or 10
2 ½ years - 3 ½ years	1:7	21
3 years -- Not yet school age 5 years	1:8 1:10	24 or 20
School age 5 years - 15 years	1:13	n/a

**28.2.2. Combination of ages.** When there is a combination of ages within a group, the group size and the number of required staff shall be determined based on the age of the youngest child.

**28.3. Group leader for facilities licensed for 13-20.** The facility licensed for 13-20 children must employ at least one group leader (see Section 27.5.2) who may be the same person as the Director/Head Teacher. Aides or assistants may be employed to complete the ratios.

**28.4. Group leader for facilities licensed for twenty-one (21) or more.** The facility licensed for 21-49 or fifty (50) or more children must employ one group leader per group of children. Aides or assistants may be employed to complete the ratios.

**28.5. Additional rules for facilities licensed for thirteen (13) or more.** All facilities licensed for thirteen (13) or more must comply with the following:

Current with updates received through May 14 , 2014 (Maine Weekly Rule Notice dated April 30, 2014).

Maine Rules Currentness \_10. Department of Health and Human Services\_148. Community Services Programs\_Chapter 32. Rules for the Licensing of Child Care Facilities \_Chapter I. Child Care Facilities (Refs & Annos)

**28.5.1. One staff person.** A single staff member may provide care for six (6) or fewer children, regardless of age at the beginning and end of the day for a period of time not to exceed one hour.

**28.5.2. Two staff persons.** At least two (2) staff members shall be present in the Child Care Facility whenever seven (7) or more children, regardless of age, are present.

## **ADDENDUM**

### **Statutory Authority & Regulatory History**