

Maryland Regulations Currentness \_ Title 13A State Board of Education \_Subtitle 18 Large Family Child Care Homes \_Chapter 01 Scope and Definitions

COMAR T. 13A, Subt. 18, Ch. 01, Refs & Annos

COMAR 13A.18.01.01

.01 Purpose and Scope.

A. The purpose of this subtitle is to establish requirements for the identification, approval, and operation of large family child care homes.

B. Scope. This subtitle:

(1) Governs child care provided to children for less than 24 hours a day in a private residence that is:

(a) Not the child's own home; and

(b) Approved, or proposed for approval, by the office for a maximum child care capacity of 9 to 12 children; and

(2) Does not apply to a family child care provider or a family child care home currently registered pursuant to COMAR 13A.15.

COMAR 13A.18.01.02

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Abuse" means:

(a) The physical or mental injury of a child, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed, by:

(i) A parent;

(ii) An individual who has permanent or temporary care or custody or responsibility for supervision of a child; or

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(iii) A household or family member; or

(b) Sexual abuse of a child, whether physical injuries are sustained or not.

(2) "Agency" means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.

(3) "Agency representative" means an individual designated by the Agency to determine compliance with this subtitle.

(4) Applicant.

(a) "Applicant" means an individual who applies to the office for a certificate of registration to operate a large family child care home.

(b) "Applicant" may include an individual who is currently licensed to operate a small center.

(5) "Approved training" means course work or a workshop provided by:

(a) A regionally accredited college or university;

(b) A State-approved private career school;

(c) The Child Development Associate National Credentialing Program;

(d) Other organizations or individuals approved by the office; or

(e) The Agency.

(6) "Approved continued training" means training, including but not limited to workshops, seminars, and conferences, that is:

(a) Approved by the office; and

(b) Used by the child care provider or a staff member of a child care home to maintain the applicable professional qualifications required by COMAR 13A.18.06.05-.07.

(7) "Approved preservice training" means training that is:

(a) Approved by the office; and

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(b) Used to meet initial professional qualifications required by COMAR 13A.18.06.05-.06 for an applicant or for a staff member of a child care home.

(8) “Child” means an individual who is younger than:

(a) 13 years old; or

(b) 21 years old and has a developmental disability or other emotional, physical, educational, or medical need for child care beyond 13 years old.

**(9) Child Care Home.**

(a) “Child care home” means a residence in which family child care is provided.

(b) “Child care home” includes a:

(i) Family child care home registered to operate pursuant to COMAR 13A.15; or

(ii) Large family child care home registered to operate pursuant to this subtitle.

(10) “Continuing registration” means a family child care registration that does not expire.

(11) “Core of knowledge” means the competencies identified by the office as essential for all individuals working in the child care delivery system, including:

(a) Child development;

(b) Curriculum;

(c) Special needs;

(d) Professionalism;

(e) Community; and

(f) Health, safety, and nutrition.

**(12) “Department” means the Maryland State Department of Education**

(13) “Director” means an individual designated by a provider to conduct the daily operations of a large family

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child care home.

(14) "Elective training" means training at a conference, seminar, or other event that is approved by the office but is not in a core of knowledge competency area.

(15) Employee.

(a) "Employee" means an individual who for compensation is employed to work in a child care home and who:

(i) Cares for or supervises children in the facility; or

(ii) Has access to children who are cared for or supervised in the facility.

(b) "Employee" includes a paid substitute.

(c) "Employee" does not include an individual who is:

(i) An independent contractor; or

(ii) A registered or certified health care professional who is compensated by the provider or the parent of a child in care to provide a specified health care service to the child.

(d) For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record review requirements set forth in this subtitle, "employee" includes an individual who:

(i) Is compensated by the provider or a resident to perform a service at the child care home;

(ii) Has access to children in care; and

(iii) Does not clearly meet, or is not excluded from, the definition of independent contractor as set forth at §B(21) of this regulation.

(16) "Family child care" means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.

(17) "Family child care teacher" means a staff member who:

(a) Is approved by the office to supervise children in care at a large family child care home; and

(b) Meets the professional requirements of COMAR 13A.18.05.06.

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(18) “Group” means a unit of children together with the staff assigned to them.

(19) “Health officer” means the health officer in each of the 23 counties and the Commissioner of Health in Baltimore City, or the duly designated representative of the health officer, or both, and refers to the health officer in the jurisdiction where the child care home is or will be located.

(20) “Identified as responsible for child abuse or neglect” means being determined by a local department to be responsible for child abuse or neglect, or awaiting the local department’s appeal hearing after the determination.

(21) Independent Contractor.

(a) “Independent contractor” means an individual or other entity:

(i) That is hired by the provider, a resident in the child care home, or the parent of a child in care, on the basis of a service contract or agreement, to perform a specialized service at the child care home, including, but not limited to, home maintenance or repair, academic tutoring, or recreational programming, for a specified period of time or in order to achieve a specified result;

(ii) That determines how the specialized service shall be performed; and

(iii) Whose specialized service is not restricted to the child care home, but is available for hire by other customers.

(b) “Independent contractor” does not include an individual who:

(i) Is a registered or certified health care professional compensated by the provider to provide a specified health care service to a child in care;

(ii) Under a private arrangement with the parent or guardian of a child or children in care, provides a health care, educational, or other service only to that child or those children; or

(iii) Is employed for compensation by a public school or by a private or nonpublic school required to report annually to the State Board of Education.

(22) “Infant” means a child younger than 18 months old.

(23) “Injurious treatment” means:

(a) Deliberate infliction in any manner of any type of physical pain, including spanking, hitting, shaking, or any other means of physical discipline, or enforcement of acts which result in physical pain;

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(b) Failure to attend to a child's physical needs and other physically damaging acts, excluding reasonable acts to protect the child from imminent danger;

(c) Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, or ridiculing; and

(d) Utilizing discipline methods that are considered inappropriate by child care professionals and create undue discomfort, such as, but not limited to, washing a child's mouth with soap, putting pepper or other spicy or distasteful items in a child's mouth, requiring a child to stand on one foot as punishment, or tying a child to a cot or other equipment.

(24) "Large family child care home" means a child care home approved by the office to operate with a maximum child care capacity of 9 to 12 children.

(25) "Licensing status" means the type of child care center license or family child care registration issued by the agency and the current operating status of that license or registration.

(26) "Local department" means the department of social services, by whatever name known, in any of Maryland's 24 local jurisdictions.

(27) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.

(28) "Neglect" means leaving a child unattended or otherwise failing to give proper care and attention to a child by the child's parents, guardian, or custodian under circumstances that indicate that the child's health or welfare is significantly harmed or placed at risk of significant harm.

(29) "Nursery school" means an educational program:

(a) For children who are 2 years old, 3 years old, 4 years old, or any sequence of these ages; and

(b) That, unless approved by the Department before July 1, 2007, to operate for more than 6 hours per day, may not operate in excess of 6 hours per day.

(30) "Office" means the central office or a regional office of the Agency.

(31) Overnight Care.

(a) "Overnight care" means child care that is provided between the hours of 12 a.m. and 6 a.m.

(b) "Overnight care" does not include child care provided to a child enrolled for care during daytime or evening hours who, because of the parent's schedule, must remain at the family child care home for up to 1/2 hour after 12 a.m. or arrive up to 1/2 hour before 6 a.m.

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(32) "Parent" means the biological or adoptive parent, or the legal guardian or custodian of a child, who enrolls the child in care.

(33) Potentially Hazardous Food.

(a) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients including synthetic ingredients capable of supporting rapid and progressive growth of infectious, toxigenic microorganisms.

(b) "Potentially hazardous food" does not include clean, whole, uncracked, odor-free shell eggs.

(34) "Preschooler" means a child who:

(a) Is 2 years old or older; and

(b) Does not attend kindergarten or a higher grade.

(35) "Professional development plan" means the written instrument for tracking continued training that is:

(a) Distributed by the office to a provider; and

(b) To be completed annually by the provider and, as applicable, the director, each family child care teacher, and each aide.

(36) "Provider" means the individual to whom a certificate of registration to operate a child care home is issued pursuant to this subtitle.

(37) "Provider substitute" means an adult who is approved by the office to be responsible for the operation of a child care home when the child care provider is absent.

(38) Relative.

(a) "Relative" means an individual related to a child by blood, marriage, or adoption.

(b) "Relative" includes a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, first or second cousin, great grandparent, great uncle, or great aunt.

(39) "Resident" means a person who lives in the child care home.

(40) "Sanction" means an enforcement action under this subtitle.

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(41) "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for a sufficient period of time to destroy vegetative cells of pathogenic bacteria and to reduce substantially the number of other microorganisms.

(42) "School age child" means a child younger than 13 years old who attends a public or nonpublic school in grades kindergarten or above.

(43) "Small center" means a child care program located in a private residence and licensed for 12 or fewer children that, before January 1, 2012, was licensed to operate as a child care center pursuant to COMAR 13A.16.

(44) Staff Member.

(a) "Staff member" means an individual 16 years old or older, whether paid or not, who is assigned responsibility for child care in a child care home and whose assignment helps to maintain the staff/child ratios required by COMAR 13A.18.08.03.

(b) "Staff member" also means the provider.

(45) "Successfully passed" means, when used in connection with:

(a) A criminal background check, that an individual:

(i) Has not received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at COMAR 13A.18.06.03A; or

(ii) If having received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime not listed at COMAR 13A.18.06.03A, has been assessed by the office as suitable for employment pursuant to COMAR 13A.18.06.03B; or

(b) A review of records of abuse and neglect of children or adults, that if an individual is:

(i) An employee of, or applying for employment by, the provider, the individual has been assessed by the office as being suitable for employment, pursuant to COMAR 13A.18.06.03B; or

(ii) An independent contractor, the individual has not been identified as responsible for the abuse or neglect of a child.

(46) "Superintendent" means the State Superintendent of Schools or the Superintendent's designee.

(47) "Toddler" means a child 18 months old or older but younger than 2 years old.



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(48) "Treatment foster care" means a 24-hour substitute care program, operated by a registered child placement agency or local department of social services, for children with a serious emotional, behavioral, medical, or psychological condition.

(49) "Volunteer" means an individual who:

(a) Is 13 years old or older;

(b) Works in the child care home but is not a compensated employee; and

(c) Is not enrolled as a child in care at the child care home.

**COMAR T. 13A, Subt. 18, Ch. 01, Administrative History**

**COMAR T. 13A, Subt. 18, Ch. 02, Refs & Annos**

**COMAR 13A.18.02.01**

**.01 Registration -General Requirements.**

**A. Requirement to Be Registered.**

(1) An individual may not operate a large family child care home unless:

(a) Both the individual and the home meet the requirements for registration set forth in this subtitle; and

(b) The individual possesses a valid certificate of registration.

(2) Conversion from a Small Center.

(a) An individual currently licensed to operate a small center may apply to the office to convert the small center license to a certificate of registration to operate a large family child care home.

(b) Application for conversion from a small center license shall be made as directed by the office.

(c) A large family child care home that is converted from a small center shall continue to operate with or under the same:

(i) Licensing status;

(ii) Approved child care capacity;

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- (iii) Approved months, days, and hours of operation;
- (iv) Approved age ranges of children to be served;
- (v) Approved child care areas;
- (vi) Variances, if any;
- (vii) Special conditions or restrictions, if any; and
- (viii) Expiration date, if any.

**B. Types of Registration. The office may issue:**

- (1) An initial registration, which may be issued on a provisional basis pursuant to Regulation .04A of this chapter; or
- (2) A continuing registration, which may be:
  - (a) Issued on a provisional basis pursuant to Regulation .04A of this chapter; or
  - (b) Replaced by a conditional registration pursuant to Regulation .04B of this chapter.

**C. A certificate of registration:**

- (1) May not be transferred or applied to another individual, residence, or child care program; and
- (2) Remains the property of the office.

**D. The provider shall display conspicuously the certificate of registration in a location where it can easily be seen and read by parents whose children are in the provider's care or who are considering placing their children in the provider's care.**

**E. The provider shall surrender the certificate of registration to the office immediately when any of the following occurs or becomes effective:**

- (1) The provider closes the child care home permanently;
- (2) The registration becomes invalid pursuant to §H(2) of this regulation;

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- (3) The registration is revoked;
- (4) The registration is suspended; or
- (5) The initial registration expires, and:
  - (a) The application for an initial or a continuing registration is denied; or
  - (b) The provider has not applied for a continuing registration.

F. Except as provided under §G of this regulation, a residence approved for use as a child care home may not also be used to operate a:

- (1) Child care home under a different registration; or
- (2) Child care program that is subject to the requirements of COMAR 13A.16 or COMAR 13A.17.

G. A residence approved by the office before July 1, 2008, for the concurrent operation of more than one child care home or more than one type of child care program may continue to be used to operate those programs, except that, while concurrent approvals are in effect, the office may not approve a request by the provider for:

- (1) An increase in child capacity;
- (2) A change in the hours of operation;
- (3) A change in the ages of children served;
- (4) A change in the approved child care area; or
- (5) A variance to a regulation under this subtitle.

H. Residence of Applicant or Provider.

- (1) Unless currently approved for the purpose, the office may not approve a residence for use as a child care home that is not the primary residence of the family child care registration applicant.
- (2) A child care home registration is subject to revocation if the home is no longer the primary residence of the provider.

**COMAR 13A.18.02.02**

**.02 Initial Registration.**

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A. An application for initial registration shall be filed with the office by an individual who wishes to operate a registered large family child care home and who:

- (1) Is not currently a registered large family child care home provider; and
- (2) Has not been registered as a large family child care home provider for at least 6 months before the date of application.

B. Before the proposed opening date of the child care home, an applicant for initial registration shall submit the following items to the office, if not submitted at the time the written application form was submitted:

- (1) Documentation of application for criminal background checks for:
  - (a) The applicant;
  - (b) Each employee, including paid substitutes; and
  - (c) Each resident in the home who is 18 years old or older;
- (2) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:
  - (a) The applicant;
  - (b) Each employee;
  - (c) Each substitute, whether paid or unpaid;
  - (d) Each resident in the home who is 18 years old or older; and
  - (e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation;
- (3) Submit a medical evaluation for the applicant and each resident in the home that:
  - (a) Was completed within 12 months before the date of application for registration;

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- (b) Was conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant; and
- (c) Is signed or verified by the individual who conducted the evaluation;
- (4) Evidence of compliance with all applicable zoning and building codes;
- (5) A written plan of operation;
- (6) An emergency and disaster plan that meets the requirements of COMAR 13A.18.10.01A(3)(a) and (b);
- (7) Workers' Compensation insurance information;
- (8) A complete personnel list, on a form supplied or approved by the office, and all related supporting documentation required by the office;
- (9) A complete staffing pattern, on a form supplied or approved by the office, which specifies by staff name all child care assignments;
- (10) Documentation that all applicable training requirements set forth at COMAR 13A.18.06.05-.06 have been met by the applicant and each staff member;
- (11) A 4-week menu of food to be served to children in care at the child care home;
- (12) A written child discipline policy;
- (13) If the child care home is located in a condominium or residence which requires homeowners' association membership, written proof of homeowner's liability insurance coverage as required by Maryland law; and
- (14) All other documentation required by law or regulation, including but not limited to:
  - (a) Proof of an on-site inspection and approval by the local fire authority having jurisdiction;
  - (b) A building use and occupancy permit, if applicable; and
  - (c) Workers' Compensation insurance, if applicable.

C. If, within 6 months after the applicant submits a completed application form, the office has not received

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documentation that all applicable requirements of §B of this regulation have been met, the office may consider the application void.

**COMAR 13A.18.02.03**

**.03 Continuing Registration.**

A. Application for Continuing Registration. To obtain a continuing registration, a provider shall submit to the office before expiration of the initial registration:

- (1) A completed request, on a form supplied by the office, for continued registration;
- (2) Documentation that the continued training requirements and the first aid and CPR certification requirements set forth in COMAR 13A.18.06.05-.07 have been met;
- (3) A medical evaluation that meets the requirements of Regulation .02B(3) of this chapter for:
  - (a) The provider;
  - (b) Each resident in the home who has child care responsibilities; and
  - (c) Each staff member;
- (4) A completed and notarized release of information form that permits the office to examine records of abuse and neglect of children and adults for:
  - (a) The provider;
  - (b) Each provider substitute;
  - (c) Each resident in the home who is 18 years old or older;
  - (d) Each staff member; and
  - (e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation;
- (5) Documentation that the child care home has passed the most recent fire inspection required by the local fire authority having jurisdiction; and

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(6) Any other documentation required by law or regulation.

**B. Maintenance of Continuing Registration.**

(1) By the end of each 12-month period after the date of issuance of a continuing registration, the provider shall make available to the office documentation that the continued training requirements set forth in COMAR 13A.18.06.05-.07 have been met.

(2) By the end of each 24-month period after the date of issuance of a continuing registration, the provider shall make available to the office the items specified in §A(2)-(6) of this regulation.

**COMAR 13A.18.02.04**

**.04 Provisional Status and Conditional Registration.**

**A. Provisional Status.**

(1) Except as provided in §A(2) of this regulation, to allow an applicant for an initial or a continuing registration additional time to meet all applicable requirements, the office may approve an initial or a continuing registration on a provisional basis for a period of up to 120 days after determining that the health and safety of the children in care are not in imminent danger.

(2) An initial registration may not be approved if the office has not yet received evidence that the applicant and, as applicable, each individual specified in Regulation .02B(1) and (2) of this chapter has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records.

(3) At the end of the provisional period, if all requirements for the initial or continuing registration are not met due to:

(a) Failure by the applicant to take an action necessary to achieve compliance, the office shall deny the application for registration; or

(b) Circumstances beyond the control of the applicant, the office may reapprove the provisional status of the registration for one or more additional periods of up to 120 days per period, except that provisional registration status may not be continued for more than 24 months after the start of the first provisional period.

(4) If the office denies a certificate of registration at the end of the provisional period, the applicant or provider does not have a valid registration and shall cease operating.

**B. Conditional Registration.**

(1) If a provider who holds a continuing registration fails to remedy a violation as required, the office may replace the continuing registration with a conditional registration for:

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- (a) A period of up to 120 days; and
  - (b) Upon approval by the Agency's central office, an additional period of up to 120 days.
- (2) Upon replacing a continuing registration with a conditional registration, the office shall issue to the provider a revised certificate of registration that states the:
- (a) Date that the continuing registration was replaced by the conditional registration;
  - (b) Period of time of the conditional registration; and
  - (c) Requirements for reinstating the continuing registration.
- (3) Immediately upon receipt of the revised certificate of registration, the provider shall:
- (a) Remove from display in the child care home the certificate of continuing registration that was originally issued; and
  - (b) Display the revised certificate as required by Regulation .01D of this chapter.
- (4) If the provider satisfies all requirements for reinstatement of the continuing registration, the office shall promptly notify the provider about the reinstatement of the continuing registration.
- (5) If the provider fails to satisfy all requirements for reinstatement of the continuing registration within the specified period of time, the office may suspend or revoke the conditional registration.

**COMAR 13A.18.02.05**

**.05 Resumption of Service.**

A. An application to resume service shall be filed by:

- (1) A registered provider who wishes to operate a large family child care home at an address different from that specified on the current certificate of registration; or
- (2) An individual who was previously registered by the office to operate a large family child care home and who wishes to re-register, if the last effective date of the previous registration is within 6 months of the application.



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B. The application to resume service shall meet all initial registration application requirements, except that:

- (1) An abbreviated application form supplied by the office shall be used; and
- (2) The office may accept as applicable to the new application the:
  - (a) Individual's original completion of the orientation process under Regulation .02B(1) of this chapter;
  - (b) Original medical reports submitted for the applicant, each resident in the home who will have child care responsibilities, and each staff member if the reports are based on medical evaluations completed within 12 months of the new application;
  - (c) Results of the original criminal background checks conducted pursuant to Regulation .02B(1) of this chapter;
  - (d) Results of the original child and adult abuse and neglect clearances conducted pursuant to Regulation .02B(2) of this chapter, if the clearances were completed within 12 months of the application; and
  - (e) Approved continued training completed within 12 months of the application.

**COMAR 13A.18.02.06**

**.06 Response of the Office to Application.**

A. Except as set forth at §C of this regulation, upon receiving the completed application and all required documentation, whether for an initial registration or a continuing registration, the office shall determine compliance with the requirements of this subtitle by:

- (1) Evaluating the application and required documentation;
- (2) Interviewing the applicant;
- (3) Inspecting the residence proposed for use as a child care home;
- (4) Evaluating the information provided by State and federal criminal background investigations; and
- (5) Evaluating the information provided from records of child and adult abuse and neglect.

B. Upon completing the procedures in §A of this regulation, the office shall, within 30 days:

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(1) Issue a certificate of registration to operate the child care home in accordance with the provisions of this subtitle if:

(a) The application is complete;

(b) All required documentation has been received; and

(c) The office is satisfied that the applicant and the residence meet the requirements of this subtitle;

(2) Deny the certificate of registration if the office determines that the applicant or the residence does not meet the requirements of this subtitle; or

(3) Issue a provisional certificate of registration in accordance with Regulation .04A of this chapter.

C. Within 30 days of receipt of a completed application for conversion of a small center license to a large family child care home registration pursuant to Regulation .02D of this chapter, the office shall issue a certificate of registration to the applicant.

**COMAR 13A.18.02.07**

**.07 Denial of a Registration Application.**

A. The office may deny a certificate of registration if:

(1) The applicant, a resident, any staff member, or the residence in which child care is to be provided fails to meet the requirements of this subtitle;

(2) An evaluation of the application by the office reveals that the applicant reported false information;

(3) The applicant has a documented history of serious or repeated regulatory violations of this subtitle or other regulations of any state concerning the care of children or adults that demonstrates an inability to provide for the health or safety of children;

(4) The applicant has had a child care home registration, a child care center license, or a letter of compliance denied or revoked before the date on the registration application, unless the office is satisfied that the condition that was the basis for the denial or revocation has been corrected;

(5) The applicant prevents the office from completing its responsibilities for registration;

(6) Upon evaluating the physical condition of the residence and surrounding premises, the office finds conditions that are unsafe or unhealthy;

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(7) An evaluation of the medical report or other information about the applicant or a resident indicates that the:

(a) Physical or mental health of the applicant or resident may pose a risk to children; or

(b) Applicant is unable to care for children;

(8) An evaluation of the criminal record of the applicant, an employee including a paid substitute, or a resident in the home indicates behavior harmful to children;

(9) An evaluation of the information provided in records of abuse and neglect of children and adults reveals that the applicant, a staff member including a substitute, or a resident is identified as responsible for abuse or neglect of children or adults, or is currently under investigation for alleged acts of abuse or neglect of children or adults;

(10) Based on an interview with the applicant or an evaluation of other pertinent information, the office concludes that the applicant cannot provide for the health, safety, or welfare of children in care on the basis of:

(a) Substantial, credible evidence of the applicant's abuse of alcohol or controlled dangerous substances,

mental instability, or other condition; or

(b) Other pertinent information received by the office which creates reasonable doubt as to the applicant's

ability to provide child care in accordance with this subtitle.

(11) The applicant is:

(a) Providing treatment foster care to a child in other than a preadoptive capacity; and

(b) Filing an application for initial registration as a family child care provider.

**B. If the office denies an application, the office shall notify the applicant in writing of the denial stating:**

(1) The reason for denial;

(2) The specific regulation with which the applicant has failed to comply that is the basis for the denial;

(3) That the applicant is entitled to a fair hearing; and

(4) The procedure to be used if the applicant wishes to request a hearing to appeal the decision of the office.

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C. If an evaluation of criminal records or records of abuse and neglect of children or adults reveals that a person designated by the applicant as a staff member may pose a risk to children in care, the office, instead of denying the registration certificate, may require the provider to designate another staff member.

D. Denial Before Complete Application.

(1) The office may deny an application for registration at any point during the application process if, following evaluation of information received to that point, the office determines that a basis for denial exists as set forth in §A of this regulation.

(2) If the office decides to deny the application before the application process is complete, the office shall send written notice of that decision to the applicant within 30 calendar days after making the decision.

**COMAR 13A.18.02.08**

**.08 Voluntary Surrender of Registration.**

A. A provider may voluntarily surrender a child care home registration at any time by notifying the office.

B. If a registration is surrendered pursuant to §A of this regulation:

(1) The office shall note in the provider's file that the registration has been voluntarily surrendered; and

(2) The provider shall return the surrendered certificate of registration to the office.

**COMAR T. 13A, Subt. 18, Ch. 02, Administrative History**

**COMAR T. 13A, Subt. 18, Ch. 03, Refs & Annos**

**COMAR 13A.18.03.01**

**.01 Advertisement.**

A. An individual may not advertise a family child care service unless the individual holds a current certificate of registration issued by the office.

B. An advertisement of the family child care service by a provider shall:

(1) Specify that the child care home is registered; and

(2) Include the registration number issued to the child care home by the office.

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COMAR 13A.18.03.02

.02 Admission to Care.

A. A provider may not admit a child for care unless the provider has:

- (1) Met the applicable requirements of this regulation; and
- (2) Received the written records required by Regulation .04C-H of this chapter.

B. At or before the child's admission to care, the provider shall obtain written information from the parent about the child's individual needs.

C. Upon admission of an infant or a toddler, a provider shall determine with the parent:

(1) A schedule for feeding the child that includes:

(a) The amounts and kinds of food consumed daily;

(b) The sequence for introducing solid food when appropriate; and

(c) Any recommendations about feeding from the infant's physician;

(2) A written individual activity plan for the child; and

(3) If the child is 12 months old or older, the need for the child to use a crib for rest purposes.

D. If a child is younger than 6 years old at the time of admission, the provider may not allow the child to remain in care if the parent does not, within 30 days after the child's admission, submit evidence to the provider on a form supplied or approved by the Office that the child has received an appropriate lead screening in accordance with applicable State or local requirements.

E. As part of the admission process, the provider shall:

(1) Give the parent, or advise the parent how to obtain, consumer education information on child care that is supplied by the office; and

(2) Provide documentation that the requirements of §C(1) of this regulation have been met.

COMAR 13A.18.03.03

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.03 Program Records.

The provider shall:

A. Create and maintain, for at least 2 years after their creation, records of program:

- (1) Enrollment, with each child's name, address, telephone number, date of birth, and dates and time periods for which enrolled; and
- (2) Attendance that indicate:
  - (a) The dates of attendance of each child in the child care home; and
  - (b) Verification by each child's parent of that child's recorded daily attendance in care;

B. Maintain:

- (1) Procedures to ensure that the whereabouts of each child in attendance is known at all times;
- (2) A written child discipline policy as required in COMAR 13A.18.07.03C;
- (3) Records of food actually served by the provider for the most recent 4 weeks as required by COMAR 13A.18.12.01G;
- (4) A written record of the dates and times at which emergency and disaster plan drills were conducted pursuant to COMAR 13A.18.10.01A(3)(c); and
- (5) A current copy of this subtitle at the home so that it is displayed and freely available for reference by parents and staff members;

C. Negotiate and maintain a written agreement with the child's parent that specifies:

- (1) The fees for and provision of care;
- (2) The provider's child discipline policy;
- (3) The presence at the home of any pet animals;

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(4) If applicable, the use of volunteers in the child care program; and

(5) If overnight care is to be provided to the child, the sleeping arrangements approved by the parent; and

D. Display a copy of the consumer education pamphlet on child care supplied by the office so that it is freely available for reference to parents.

**COMAR 13A.18.03.04**

**.04 Child Records.**

A. For each child admitted to, or continuing in care, the provider shall maintain written records, on forms provided or approved by the office, that meet the requirements of this regulation.

B. Each child's written records shall be:

(1) Readily accessible to each staff member providing care to the child; and

(2) Kept on file at the child care home during the period of a child's enrollment and for 2 years after the child's disenrollment.

C. The provider shall obtain and maintain emergency information from the child's parent that:

(1) Includes the child's name and date of birth;

(2) Includes the parent's full name, current address, and telephone contact information;

(3) Includes the name and telephone number of the individual who is authorized to pick up the child each day;

(4) Includes the name and telephone number of at least one individual who is authorized to pick up the child in an emergency;

(5) Includes the name, address, and telephone number of the child's physician or other health care provider;

(6) If the child has a special health condition, includes emergency medical instructions for that condition;

(7) Is signed and dated by the child's parent;

(8) Is updated as needed, but at least annually; and

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(9) Is readily accessible to each staff member supervising the child, including during an off-site activity.

D. Unless a parent objects to a child's medical examination because of bona fide religious beliefs and practices, a health assessment of the child shall be provided by the child's parent that:

(1) Includes a parental statement of the child's health status;

(2) If applicable, includes a statement of allergies; and

(3) Includes a medical evaluation, signed and dated by a physician that states the child is medically cleared to attend child care and is based on an examination completed by the physician within the last:

(a) 2 months before admission for a child younger than 9 months old;

(b) 3 months before admission for a child between 9 and 24 months old; or

(c) 12 months before admission for a child 2 years old or older.

E. If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as required by State or local law.

F. A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly, without a gap in time longer than 3 months, from another registered child care home, a licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §§D(3) and E of this regulation.

G. There shall be an immunization record showing that:

(1) The child has had immunizations appropriate for the child's age which meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene;

(2) The child has had at least one dose of each vaccine appropriate for the child's age before entry and is scheduled to complete the required immunizations;

(3) A registered physician or a health officer has determined that immunization is medically contraindicated according to accepted medical standards; or

(4) The parent objects to the child's immunization because it conflicts with the parent's bona fide religious beliefs and practices.

H. If a parent objects to a child's immunization or medical examination, or both, because of the parent's bona fide religious beliefs and practices, the provider shall require the parent to provide a health history of the child and sign a statement indicating that to the best of the parent's knowledge and belief, the child is in satisfactory health and free



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from any communicable disease.

I. The provider shall record or maintain on file:

- (1) Each incidence of acute illness requiring exclusion of the child from care pursuant to COMAR 13A.18.11.01B;
- (2) Each injury or accident required by Regulation .06C and D of this chapter to be reported;
- (3) Child medication records required by COMAR 13A.18.11.04D;
- (4) If the child requires a modified diet, the prescription from the child's health practitioner or the written instructions from the child's parent, pursuant to COMAR 13A.18.12.02;
- (5) If program activities away from the child care home are provided, prior written permission from the child's parent to take the child to those activities; and
- (6) If applicable, documentation that the parent of a child who is 12 months old or older, but younger than 2 years old, has requested a crib for the child's rest periods.

J. Written information about the child's individual needs that is supplied by the parent by the time of the child's admission to care shall be reviewed by the provider and the parent at least every 12 months after the child's admission to care.

K. A provider shall maintain daily records of the amounts and kinds of liquids and solid food consumed by each child younger than 2 years old. These records shall be:

- (1) Dated and kept on file for at least 4 weeks;
- (2) Available in the area where children younger than 2 years old are fed; and
- (3) Made available to the child's parent.

COMAR 13A.18.03.05

.05 Staff Records.

The provider shall:

A. Maintain and, upon request by the office, submit a current and complete list of personnel, on a form supplied or approved by the office, that includes each individual, whether paid or unpaid, who works at the child care home on a

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routine basis;

B. For review by the office and by parents who have enrolled their children or are considering enrolling their children, post in a conspicuous location a current and complete staffing pattern, on a form supplied or approved by the office, that specifies:

- (1) The number and ages of children enrolled;
- (2) The staff/child ratio in relation to the daily schedule; and
- (3) By staff member name, all child care assignments;

C. During an individual's employment at the child care home and for 2 years after the date of the individual's last employment there, maintain a record for each individual that includes:

- (1) The individual's:
  - (a) Training, if required under this chapter;
  - (b) Experience, if required under this chapter; and
  - (c) Function or position;
- (2) Verification that the staff member's age complies with the minimum required for the position held;
- (3) Employment medical evaluation;
- (4) Criminal background check; and
- (5) Date on which the staff member received the written information required by COMAR 13A.18.06.02;

D. Maintain documentation required for:

- (1) Substitutes, pursuant to COMAR 13A.18.06.08B; and
- (2) The adult available for emergencies, pursuant to COMAR 13A.18.08.02D;

E. Maintain a calendar or other written record of the:

- (1) Days on which a substitute provides care; and

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(2) Staff member in whose place the substitute worked; and

F. If using volunteers in the child care program, maintain a record for each volunteer that includes:

(1) The date on which the volunteer received the child health and safety orientation required by COMAR 13A.18.06.02; and

(2) If the volunteer is present at the child care home more than once per week:

(a) A brief statement of the volunteer's duties; and

(b) A medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer's duties.

**COMAR 13A.18.03.06**

**.06 Notifications.**

The provider shall:

A. Within 5 working days of adding a new staff member, provide to the office:

(1) Written notification of the individual's addition to the child care home staff;

(2) Information about the individual's work assignment; and

(3) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about the individual;

B. Within 15 working days of adding the new employee, provide to the office complete documentation that the individual meets the requirements of this subtitle for the assignment, unless documentation already is on file in the office;

C. Notify or require that a staff member notify the office within 24 hours of:

(1) The death of a child in care if the child died while at the child care home;

(2) The death of a child enrolled at the child care home if the child died of a contagious disease; and

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(3) An injury to a child that occurs while the child is at the child care home or at an off-site activity which results in the child's being:

(a) Treated by a medical professional; or

(b) Admitted to a hospital;

D. If a child has an injury or accident while in attendance, notify the child's parent:

(1) Immediately, if the child's injury is serious; or

(2) Within the same day, about any other injury and each accident which may result in injury;

E. Immediately notify the office if an employee's criminal background check received on or after October 1, 2005, reports a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at COMAR 12.15.02.07B;

F. Immediately notify the office of:

(1) An employee who is under investigation for:

(a) A criminal charge; or

(b) An allegation of child abuse or neglect; or

(2) A change at the child care home that may affect the status of the registration, including but not limited to:

(a) Individuals living on the premises;

(b) Operation of the child care home; or

(c) Telephone number; and

G. Within 5 working days after there is a new resident who is 18 years old or older:

(1) Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children adults for information about the resident; and

(2) Ensure that the resident applies for a federal and State criminal background check.

**COMAR 13A.18.03.07**

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**.07 Change of Operation.**

A. If a provider wishes to make any changes from the current registration, such as use of rooms not previously approved for child care, capacity, hours of operation, or age groups served, the provider shall request and receive written approval of the change from the office before implementing the change.

B. After determining whether the proposed change meets the requirements of this subtitle, the office shall approve or disapprove the proposed change. If the change is approved, the office shall issue a revised registration indicating the change.

**COMAR 13A.18.03.08**

**.08 Variances.**

A. The office may grant a variance to a regulation under this subtitle:

(1) If the safeguards to a child's health, safety, or well-being are not diminished;

(2) When the provider presents clear and convincing evidence that the regulation is met by an alternative which complies with the intent of the regulation; and

(3) For a limited period of time as specified by the office, or for as long as the registration remains in effect and the provider continues to comply with the terms of the variance.

B. Within 30 calendar days of receiving a completed request for a variance, the office shall notify the provider that the variance has been granted or denied.

C. If a variance request is denied by a regional office of the Agency:

(1) The provider may appeal the denial to the Agency's central office; and

(2) The Agency's central office has the final determination of whether or not a variance is granted.

**COMAR T. 13A, Subt. 18, Ch. 03, Administrative History**

**COMAR T. 13A, Subt. 18, Ch. 04, Refs & Annos**

**COMAR 13A.18.04.01**

**.01 Hours of Care.**

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A. A provider shall limit the hours of care to the approved hours of operation stated on the certificate of registration.

B. A provider may not offer overnight care without prior written approval from the office.

C. A provider who wishes to provide overnight care shall:

(1) Submit to the office a written plan of operation that includes:

(a) The number and ages of children to be served;

(b) A meal and snack schedule;

(c) The name of the overnight care substitute, if different from the daytime care substitute;

(d) A child supervision plan;

(e) A bedtime routine; and

(f) An evacuation plan for each room where a child in care will sleep; and

(2) Obtain the written approval of each child's parent for the child's sleeping arrangements.

COMAR 13A.18.04.02

.02 Child Capacity.

A. The office shall determine the capacity of a large family child care home according to criteria established in:

(1) This subtitle affecting floor space, outdoor activity space, staffing, child supervision, equipment, ages of the children to be enrolled, and sanitary facilities; and

(2) Applicable codes, including but not limited to zoning, building, and fire codes.

B. The maximum total capacity of a large family child care home is 12 children.

C. The number of children present in care at any one time may not exceed the maximum child capacity number stated on the certificate of registration.

COMAR 13A.18.04.03

.03 Enrollment and Attendance.

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A. A provider may enroll a child for care at the child care home only if the child's age group is approved for care, as indicated on the provider's current certificate of registration.

B. All children in care at any one time are counted as being in attendance for purposes of complying with the regulations governing capacity, group size, and staff/child ratios.

C. The office:

(1) Shall count as a child in care a resident who is younger than 6 years old; and

(2) May count as a child in care a child who is visiting the child care home if the child:

(a) Is younger than 8 years old and unaccompanied by an adult; or

(b) Cannot be sent home immediately.

D. The provider may not permit a child to remain in care for more than 14 hours in any 24-hour period on a regular basis without prior approval from the office.

**COMAR 13A.18.04.04**

**.04 Restriction of Operations.**

A. Upon determining that any of the following is unsuitable for the child care home, the office may restrict or reduce the provider's approved:

(1) Hours of care;

(2) Child care age groups; or

(3) Child capacity.

B. The office may base a restriction or reduction under §A of this regulation on any of the following factors:

(1) Space available, indoors or outdoors;

(2) Equipment available;

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- (3) Number and ages of residents in the child care home;
- (4) Responsibility of the provider to care for another individual who may require special attention or care, including, but not limited to, an elderly resident or a child with a serious physical, emotional, or behavioral condition;
- (5) Applicable fire, zoning, health, environmental, or other codes;
- (6) Failure to comply with group size and staffing requirements set forth at Chapter 08.03 of this subtitle; or
- (7) Other factors the office determines may cause a risk to a child's health, safety, or welfare.

C. A provider may appeal a restriction or reduction pursuant to §B of this regulation by filing a request for hearing:

- (1) Not later than 20 calendar days after the notification of the office's action; or
- (2) In the case of an emergency reduction in capacity, within 72 hours of notification by the office of its decision to immediately reduce the number of children in care.

**COMAR T. 13A, Subt. 18, Ch. 04, Administrative History**