

Administrative Rules of Montana Currentness _Title 37. Public Health and Human Services _Chapter 95.
Licensure of Day Care Facilities _Sub-chapter 7. Group and Family Day Care Homes

Mont.Admin.R. 37.95.701

37.95.701. GROUP AND FAMILY DAY CARE HOMES, PROVIDER RESPONSIBILITIES AND QUALIFICATIONS (REPEALED)

Mont.Admin.R. 37.95.702

37.95.702 GROUP DAY CARE AND FAMILY DAY CARE HOMES, STAFFING AND ADDITIONAL REQUIREMENTS

- (1) Except for approved overlap care, there shall be at least two caregivers caring for the children at all times when there are more than six children present at the home.
- (2) There shall be no more than six children under the age of two in a group day care home or three children under the age of two in a family day care home at any time, unless care is provided exclusively for children under the age of two.
- (3) A family day care facility that cares exclusively for children under the age of two may not have more than four children present. A group day care facility that cares exclusively for children under the age of two must have no more than four children present unless there are two caregivers.
- (4) There shall be sufficient staff so that an adult is always present and supervising all children.
- (5) Except for approved overlap care, the provider may not provide care for a child if caring for that child would cause the provider to exceed the number of children the provider is registered to care for on the registration certificate.
- (6) The provider shall maintain an up-to-date master list with the name, address, and phone number of all children in care and their parents or guardians.

Mont.Admin.R. 37.95.703

37.95.703. GROUP AND FAMILY DAY CARE HOMES: PROVIDER RESPONSIBILITIES AND QUALIFICATIONS

- (1) The provider and all persons responsible for children in the day care home must:
 - (a) be at least 18 years of age;
 - (b) demonstrate they are physically, emotionally, and mentally capable of performing the essential function of their position with or without reasonable accommodations;

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(c) be free of communicable disease;

(d) have met the immunization requirements of ARM 37.95.140; and

(e) demonstrate they are of good moral character.

(2) The provider and all staff, including care-givers, aides, volunteers, kitchen and custodial staff, and all persons over the age of 18 residing in the day care facility or staying in the facility on a regular or frequent basis, must obtain a completed criminal background check, a completed child protective services check, and a statement of health. For those persons who are considered caregivers, this information must be completed before providing direct unsupervised care to the children attending the day care facility. The director or provider/owner of the facility is responsible for ensuring these reports and other pertinent information are completed and submitted to the department within 15 actual days of the care-giver providing care.

(3) The provider, or an approved care-giver designated by the provider, shall be responsible for the direct care, protection, supervision, and guidance of the children through active involvement or observation in group and family day care facilities.

(4) The provider shall attend a basic day care orientation or its equivalent provided or approved by the department within the first 60 days of certification. This orientation must include the following areas:

(a) health;

(b) safety;

(c) child development/well being;

(d) discipline/guidance;

(e) nutrition/food safety; or

(f) business aspects of a child care business.

(5) Orientation training does not count toward the required eight hours of approved education or training education as specified in (6).

(6) The provider and all care-givers must annually verify that they have met the training requirements set out in ARM 37.95.162.

(7) The provider must hold current course completion cards in CPR for infant, child, and adult CPR; infant choking response; and standard first aid. Course completion means direct instruction which includes the practice and demonstrated applications of CPR methods as taught by instructors from accredited entities.

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Mont.Admin.R. 37.95.704

Rule 37.95.704. RESERVED

Mont.Admin.R. 37.95.705

37.95.705. GROUP AND FAMILY DAY CARE HOMES, BUILDING REQUIREMENTS

(1) The day care home must have a minimum of 35 square feet per child of indoor space, not including food preparation areas of the kitchen, bathrooms, toilets, offices, staff rooms, corridors, hallways, closets, lockers, laundry areas, furnace rooms, cabinets, and storage shelving spaces, as well as 75 square feet per child of outdoor play space.

(2) Every story of the day care facility that is used for day care purposes shall have at least two remotely located means of egress as defined in ARM 37.95.102(42). All areas used for day care purposes must have at least one door for egress that is at least 34 inches wide and must also have at least one other means of egress that provides a clear opening of at least 20 inches in width, 24 inches in height and 5.7 sq. feet in area. The bottom of the opening shall not be more than 44 inches above the floor. If windows are used for rescue or exiting purposes, the provider shall have a written and feasible evacuation plan. All exits must be unobstructed at all times.

(3) Remotely located means of egress from each room as required in (2) are not required in buildings protected throughout by an approved, automatic residential sprinkling system, or where the room or space has a door leading directly to the outside of the building.

(4) If basements are used for day care purposes:

(a) in facilities newly licensed on or after the effective date of these rules or for which there is a change in ownership on or after the effective date of these rules each designated area for children's activities must have two means of egress that are remote from each other unless:

(i) the basement areas are protected by an approved, automatic residential sprinkler system; or

(ii) if the basement area contains an approved sprinkling system, then the area is only required to have direct egress from the basement. If children are sleeping in the basement area, then the requirements of (5) apply.

(b) the basement must be dry, well ventilated, warm and well lighted.

(5) All rooms used for napping by children must have at least two means of escape, at least one of which shall be a door or a stairway providing a means of unobstructed travel to the outside of the building at street or ground level to the public way. The second means of escape may be a window which meets the egress requirements of (2).

(6) Third stories in dwellings must not be used for day care purposes and must be barricaded or locked to prevent entry by children.

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- (7) Doorways and stairs must be clear of any obstruction.
- (8) Every closet door must be such that children can open the door from the inside.
- (9) Every bathroom door must be designed to permit the opening of the locked door from the outside in an emergency and the opening device must be readily accessible to the provider.
- (10) Protective receptacle covers must be installed on electrical outlets in all areas occupied by children under five years of age.
- (11) The home and grounds used by children must be maintained to ensure the following:
- (a) the building is in good repair;
 - (b) the floors, walls, ceilings, furnishings, and other equipment are reasonably clean;
 - (c) the building and grounds are reasonably free of insects, rodents, and other vermin; and
 - (d) the children attending the facility shall not be exposed to paint containing lead in excess of .06%.

Mont.Admin.R. 37.95.706

37.95.706. GROUP AND FAMILY DAY CARE HOMES, FIRE SAFETY REQUIREMENTS

- (1) In an emergency, all occupants of the day care facility must be able to escape from the home or building in a safe and timely manner.
- (2) A fire extinguisher must be easily accessible on each floor level. The minimum level of extinguisher classification is 2A10BC. Fire extinguishers shall be mounted near outside exit doors.
- (3) All day care facilities must have operating UL smoke detecting devices on each floor of the facility, installed in accordance with the manufacturer's specifications. Smoke detectors must be installed in front of the doors to stairways and in corridors of all floors occupied by the day care. Smoke detectors must be installed in any room in which children sleep. If individual battery-operated smoke detectors are used, the following maintenance is required:
- (a) smoke detectors must be tested at least once a month to ensure that they are operating correctly and have new operating batteries installed at least once each calendar year; and
 - (b) the placement and number of detectors in a home or building must be adequate to awaken all sleeping occupants.

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(4) All wood burning stoves must meet building codes for the installation and use of such stoves. If used during the hours of care, the stove must be provided with a protective enclosure.

(5) No portable electric or unvented fuel-fired heating devices are allowed. All radiators, if too hot to touch, must be provided with a protective enclosure.

(6) A minimum of eight fire drills must be conducted annually, at least one month apart as weather permits. Records, including who conducted the drill, when the drill took place, how many adults and children were present during the drill, the time of day the drill occurred, and how long it took to evacuate everyone must be maintained at the facility and made available for review.

Mont.Admin.R. 37.95.707

37.95.707. GROUP CHILD CARE HOMES, SAFETY REQUIREMENTS (REPEALED)

Mont.Admin.R. 37.95.708

37.95.708. GROUP AND FAMILY DAY CARE HOMES, OTHER FACILITY REQUIREMENTS

(1) Each home must have hot and cold running water with at least one toilet provided with toilet paper and one sink provided with soap and paper towels.

(2) Each facility must have a working telephone. Those facilities which have an unlisted number must make this number available to the parents and emergency contact persons of the children in care, and the appropriate regional or local offices of the department.

(3) Telephone numbers of the parents, the hospital, police department, fire department, ambulance, and the Emergency Poison Control Center (1 (800) 222-1222) must be posted by each telephone.

(4) No provider shall actively operate another business in the facility during the time the children are present for day care services.

(5) When a municipal water supply system is not available, a private system may be developed and used as approved by the state or local health department. Testing must be conducted at least annually by a certified lab to ensure that the water supply remains safe and the licensee or registrant shall provide laboratory results to the department during the licensing or relicensing process. Sanitary drinking facilities shall be provided by means of disposable single-use cups, fountains of approved design, or separate, labeled or colored glasses for each child.

(6) An adequate and safe sewage disposal system shall be provided and used as approved by the state or local health department.

(7) Garbage cans shall be provided in sufficient number and capacity to store all refuse between collections and shall be corrosion resistant, fly tight, watertight, and rodent proof with lids. Kitchen garbage containers must have lids or

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be stored in an enclosed area.

(8) All food shall be from an approved source and shall be transported, stored, covered, prepared, and served in a sanitary manner to prevent contamination.

(a) Milk and other dairy products shall be pasteurized.

(b) Use of home canned foods other than jams, jellies, and fruits is prohibited.

(c) Perishable foods shall be kept at temperatures above 140°F or below 45°F.

(d) No persons with boils, infected wounds, respiratory diseases, or other communicable diseases shall handle food or food utensils.

(e) All food utensils shall be properly washed and rinsed after each usage. A domestic style dishwasher may be used if equipped with a heating element.

(f) Single service utensils may only be used once.

(9) Folding of clean laundry must not take place on the same work surface used for sorting dirty laundry. Bedding shall be laundered when necessary and aired out periodically to prevent mildew.

Mont.Admin.R. 37.95.709 and 37.95.710

Rules 37.95.709 and 37.95.710. RESERVED

Mont.Admin.R. 37.95.711

37.95.711. GROUP AND FAMILY DAY CARE FACILITY NUTRITION

(1) Nutritious meals and snacks must be provided to children in such quality and quantity to meet the national research council or the USDA child and adult care food program recommended dietary allowances for children of each age. Minimum nutritional requirements, age appropriate, will be supplied to the provider by the state or county health department.

(2) The above requirement in (1) shall be deemed to have been met if the provider provides nutritious meals and snacks as follows:

(a) children in care for a continuous period of five hours to ten hours shall be provided at least one meal appropriate to the time of day and two snacks; or

(b) children in care for a continuous period of 10 hours or more shall be provided at least one meal every six hours and one snack between meals. The six hours requirement does not apply during the hours that the child is

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sleeping when night care is provided; or

(c) children in care for two to six hours shall be provided one snack every 2 1/2 hours.

(3) Special diet orders must be kept on file by the provider as submitted to the provider in writing by parents.

(4) For the child requiring a rigid diet, food shall be brought from home and labeled clearly.

(5) Menu plans shall be available to parent upon request.

(6) A record of food served shall be kept on file for at least one month.

(7) Meal and snack service to children and the preparation of food by children shall be carefully supervised.

(8) Fresh drinking water shall be available to children and offered at frequent intervals.

(9) Proper methods of handling, preparing, and serving food in a safe and sanitary manner shall be consistently implemented by the provider.

Mont.Admin.R. 37.95.712 to 37.97.714

Rules 37.95.712 to 37.97.714. RESERVED

Mont.Admin.R. 37.95.715

37.95.715. GROUP AND FAMILY DAY CARE HOMES, PROGRAM REQUIREMENTS

(1) A written plan of daily activities and routines, in addition to free play, must be established. The plan must be flexible to accommodate the ages and needs of individual children and the group as a whole. It must be designed with intervals of stimulation and relaxation, and a balance between periods of active play and quiet play or rest.

(2) There must be developmentally appropriate activities for the children which foster sound social, intellectual, emotional and physical growth including:

(a) opportunities for individual and small group activities;

(b) time and opportunity for creative experiences for children through art, music, books, and stories, and dramatic play; and

(c) outdoor play each day except when precluded by severity of weather.

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(3) The provider or other care-giver who is at least 18 years of age shall be on the premises at all times children are in care.

(4) Providers shall use appropriate forms of discipline.

(a) Physical punishment, including spanking or shaking and other forms of corporal punishment are strictly prohibited in day care facilities. Discipline shall include positive guidance, redirection and the setting of clear limits that foster the child's ability to become self-disciplined.

(b) Any punishment or discipline which is humiliating, frightening, or otherwise damaging, is prohibited.

(c) Parental or guardian permission does not allow the use of punishments or disciplines prohibited in (4)(a) and (b) above.

(5) Television or movie watching during the hours children are in care shall not be excessive and shall be limited to child-appropriate programs.

Mont.Admin.R. 37.95.716

37.95.716. GROUP CHILD CARE HOMES, SPECIAL PROGRAM REQUIREMENTS (REPEALED)

Mont.Admin.R. 37.95.717

37.95.717. GROUP CHILD CARE HOMES, ADDITIONAL REQUIREMENTS (REPEALED)

Mont.Admin.R. 37.95.718

37.95.718. GROUP DAY CARE AND FAMILY DAY CARE HOMES, NIGHT CARE AND OVERLAP

(1) Day care homes offering night care must develop plans for program, staff, equipment and space which will provide appropriately for the personal safety and emotional and physical care of children away from their families at night.

(2) This requirement shall be deemed to have been met if:

(a) special attention is given by the care-giver and the parents to provide for a transition into this type of care appropriate to the child's emotional needs;

(b) a selection of toys for quiet activities which can be used with minimal adult supervision is provided for children prior to bedtime;

(c) bathing facilities, comfortable beds or cots, and complete bedding are provided;

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(d) staff are available to assist children during eating and pre-bedtime hours and when dressing;

(e) during sleeping hours, staff have a plan of supervision which involves practices where no child is left alone and staff are in the immediate vicinity and on the same floor level of sleeping children in order to adequately hear the children should they wake and to provide for the needs of children and respond to any emergency; and

(f) at appropriate times a nutritious dinner and/or breakfast is served to children and a bedtime snack is offered.

(3) An individual day care provider may not provide care consecutively day and night without at least one additional care-giver. No care-giver may have responsibility for the care and supervision of children for more than 12 consecutive hours in a 24 hour period.

(4) Overlap care may be approved by the department in situations, such as before and after school, when the number of children in care over three years of age would exceed, for a short period of time, the registered capacity.

(a) Overlap of children under three years of age shall not be permitted.

(b) Overlap care shall not exceed three hours total in any day care day.

(c) Group day care facilities may be approved to provide overlap care for up to four additional children during the approved overlap time if there are at least two care-givers providing direct care at any time there are more than eight children being cared for at the facility.

(d) Family day care homes may care for two additional children during the approved overlap time.

(e) Day care facilities providing two shifts of 12-hour care may be granted three hours of overlap care for each 12 hours of continuous care upon the written approval of the department representative.

(f) There must be 35 square feet per child of indoor space including the additional children during approved overlap hours.

(g) If a provider wishes to provide overlap care, the provider shall file a written plan for this care stating the specific hours in which the overlap will occur and the arrangements for providing adequate activities and supervision to all children during this period.

(h) Overlap care shall not occur until the provider has received written approval of this plan from the department.

(i) Group day care homes which exceed 12 children during approved overlap may be subject to inspection by the state fire prevention and investigation bureau and the state sanitarian.

Mont.Admin.R. 37.95.719

Rule 37.95.719. RESERVED

Mont.Admin.R. 37.95.720

37.95.720. GROUP AND FAMILY DAY CARE HOMES, EQUIPMENT

(1) Play equipment and materials must be provided that are appropriate to the developmental needs, individual interests, and ages of the children. There must be a sufficient amount of play equipment and materials so that there is not excessive competition and long waits.

(2) Play equipment and materials must include items from each of the following six categories: dramatic role playing, cognitive development, visual development, auditory development, tactile development and large-muscle development.

(3) High chairs, when used, must have a wide base and a safety strap. Portable high chairs that hook onto tables are not allowed.

(4) Each child, except school-age children who do not take naps, shall have clean, age-appropriate rest equipment, such as a crib, cot, bed or mat. Seasonably appropriate top and bottom covering, such as sheets or blankets, must be provided. Crib mattresses and other rest equipment shall be waterproof and regularly sanitized.

Mont.Admin.R. 37.95.721

37.95.721. GROUP CHILD CARE HOMES, SWIMMING (REPEALED)

Mont.Admin.R. 37.95.722

37.95.722. GROUP CHILD CARE HOMES, TRANSPORTATION (REPEALED)

Mont.Admin.R. 37.95.723 to 37.95.725

Rules 37.95.723 to 37.95.725. RESERVED

Mont.Admin.R. 37.95.726

37.95.726. GROUP CHILD CARE HOMES, PARENT INVOLVEMENT (REPEALED)

Mont.Admin.R. 37.95.727 to 37.95.729

Rules 37.95.727 to 37.95.729. RESERVED

Mont.Admin.R. 37.95.730

37.95.730. GROUP DAY CARE AND FAMILY DAY CARE HOMES, REGISTRATION SERVICES PROVIDED

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(1) The department will provide the following:

(a) assistance to the applicant to meet registration requirements;

(b) referral services concerning children's problems; and

(c) consultation to the day care provider in providing enrichment experiences for the children, proper environment and nutrition.

(2) The department may investigate and inspect the conditions and qualifications of any family day care home and group day care home holding a registration certificate.

(3) The department will visit and inspect at least 20% of all registered family day care homes and group day care homes.