***NOTE:*** *This document includes amendments, effective July 20, 2015, to Chapters 02, 03, 05, 06, 08, 09, 11, and 12 under COMAR 13A.15.*

# Title 13A STATE BOARD OF EDUCATION
## Subtitle 15 FAMILY CHILD CARE

Authority: Family Law Article, §§5-550, 5-551, 5-557.1, and 5-560; Human Services Article, §1-202; State Government Article, §10-617; Annotated Code of Maryland
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

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## COMAR 13A.15.01 Scope and Definitions

### .01 Purpose.

The purpose of registration of family child care homes is to:

A. Protect the health, safety, and welfare of children while they are in family child care; and

B. Identify family child care homes.

**.02 Definitions.**

A. In this subtitle, 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

(iii) A household or family member; or

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

(2) "Acute illness" means an abnormal condition of the body with rapid onset that has a short course of duration, as opposed to a chronic illness of long duration.

(3) "Additional adult" means an individual 18 years old or older who assists a family child care provider in caring for children who are younger than 24 months old.

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

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

(6) "Applicant" means a person who has submitted to the office all of the required forms and documentation to request approval for initial registration or for continuing registration.

(7) "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.

(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) "Continuing registration" means a family child care registration that does not expire.

(10) "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.

(11) "Department" means the Maryland State Department of Education.

(12) "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.

(13) Employee.

(a) "Employee" means an individual who for compensation is employed to work in a family 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 licensed or certified health care professional who is compensated by the family child care 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 family 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 in §B(19) of this regulation.

(14) "Family child care" has the same meaning as family day care as defined in Family Law Article, §5-501(e), Annotated Code of Maryland, and 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.

(15) "Family child care coprovider" means an individual who shares responsibility with the family child care provider for the operation of the family child care home and who meets the requirements of this subtitle.

(16) "Family child care home" means the residence in which child care is given.

(17) "Family child care provider" means the adult who has primary responsibility for the provision of child care in the family child care home and who meets the requirements of this subtitle.

(18) "Identified as responsible for child abuse or neglect" means being determined by a local department to be responsible for indicated child abuse or neglect, or awaiting the local department's appeal hearing after the determination.

(19) Independent Contractor.

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

(i) That is hired by the family child care provider, a resident, or the parent of a child in care, on the basis of a service contract or agreement, to perform a specialized service at the family 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 family child care home, but is available for hire by other customers.

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

(i) Is a licensed or certified health care professional compensated by the family child care 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.

(19-1) "Infant-toddler" means a child age group comprising children younger than 2 years old.

(20) "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;

(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.

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

(22) "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.

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

(24) Overnight Care.

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

(b) "Overnight care" does not include family 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.

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

(26) "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.

(27) "Provider" means the individual or individuals to whom a family child care certificate of registration is issued under this subtitle.

(28) 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.

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

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

(31) "Substitute" means an adult who is responsible for the operation of a family child care home when the provider is absent.

(32) "Successfully passed" means, when used in connection with a criminal background check or a review of records of abuse and neglect of children or adults conducted on an individual, that the individual:

(a) Has not received a conviction, a probation before judgment disposition, or a not criminally responsible disposition, or does not have a pending charge for the commission or attempted commission of a crime that:

(i) Is listed at COMAR 13A.15.02.07B(1)—(11); or

(ii) Indicates other behavior harmful to children; or

(b) Has not been identified as responsible for the abuse or neglect of a child or an adult.

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

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

(35) Volunteer.

(a) "Volunteer" means an individual who:

(i) Is 13 years old or older;

(ii) Works in or for the family child care program but is not a compensated employee of the provider; and

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

(b) "Volunteer" does not mean an additional adult or a substitute.

## COMAR 13A.15.02 Registration Application and Maintenance

### .01 Registration—General Requirements.

A. Requirement to Be Registered.

(1) Except as provided under §A(2) of this regulation, an individual may not operate a 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) A family child care home is not required to be registered if the provider:

(a) Is a relative of each child;

(b) Is a friend of each child's parent or legal guardian and the care is provided on a nonregular basis of less than 20 hours a month; or

(c) Has received the care of the child from a child placement agency licensed by the Department of Human Resources.

(3) In this subtitle, all requirements pertaining to a family child care provider shall apply equally to a family child care coprovider, except that the coprovider is not required to reside in the child care home.

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 under Regulation .04A of this chapter; or

(b) Placed on a conditional status under Regulation .04B of this chapter.

C. A certificate of registration:

(1) May not be transferred to another individual or residence; 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 family child care home permanently;

(2) The registration becomes invalid pursuant to §H(2) of this regulation;

(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 under a family child care registration may not also be used to operate a:

(1) Family child care program under a different registration; or

(2) Child care program that is subject to the requirements of COMAR 13A.16 or 13A.17.

G. A residence approved by the office before July 1, 2008, for the concurrent operation of more than one family child care program 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 family child care home registration is subject to revocation if the home is no longer the primary residence of the provider.

### .02 Initial Registration.

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

(1) Is not currently a registered family child care provider; and

(2) Has not been registered as a provider for at least 6 months before the date of application.

B. An applicant for an initial registration shall:

(1) Complete an orientation to family child care regulations that is offered or approved by the office;

(2) Submit a completed application form, supplied by the office, for initial registration;

(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;

(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) Apply for a federal and State criminal background check at a designated office in the State;

(5) Ensure that an application for a federal and State criminal background check is made at a designated office in the State by each:

(a) Resident in the home who is 18 years old or older;

(b) Individual paid to serve as the provider's substitute; and

(c) Paid employee of the family child care home who is 14 years old or older;

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

(a) The applicant;

(b) Each resident in the home who is 18 years old or older;

(c) Each individual designated as a substitute; and

(d) If applicable, an additional adult; and

(e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation;

(7) As applicable, submit documentation that:

(a) The home meets State and local fire, health, and zoning requirements; and

(b) If the home is located in a condominium or residence which requires homeowners' association membership, the applicant has homeowner's liability insurance coverage as required by Maryland law;

(8) Submit documentation that the applicable training requirements specified in COMAR 13A.15.06.02 have been met; and

(9) Submit documentation showing that the home has met all applicable lead-safe environment requirements set forth in COMAR 13A.15.05.02.

C. If, within 6 months after the applicant submits a completed application form, the office has not received documentation that all applicable requirements of §B of this regulation have been met, the office may consider the application void.

### .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.15.06.02B-D 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) If applicable, the additional adult;

(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) If applicable, the:

(i) Additional adult; and

(ii) Additional adult's substitute; 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 family child care home has passed the most recent fire inspection required by the local fire authority having jurisdiction; and

(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 submit to the office documentation that the continued training requirements set forth in COMAR 13A.15.06.02B and C have been met.

(2) By the end of each 24-month period after the date of issuance of a continuing registration, the provider shall submit to the office the items specified in §A(3)—(6) of this regulation.

## .04 Provisional and Conditional Status.

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(5) and (6) 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 Status.

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

(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 placing a continuing registration on conditional status, the office shall issue to the provider a revised certificate of registration that states the:

(a) Placement of the registration on conditional status;

(b) Period of time of the conditional status; and

(c) Requirements for lifting the conditional status.

(3) Immediately upon receipt of the revised certificate of registration, the provider shall:

(a) Remove from display in the 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 lifting the conditional status within the specified period of time, the office shall promptly:

(a) Discontinue the conditional status; and

(b) Notify the provider to redisplay the original certificate of continuing registration.

(5) If the provider fails to satisfy all requirements for lifting the conditional status within the specified period of time, the office may suspend or revoke the continuing registration.

## .05 Resumption of Service.

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

(1) A registered provider who wishes to provide family child care at an address different from that specified on the current certificate of registration; or

(2) An individual who was previously registered by the office as a provider and who wishes to reregister, if the last effective date of the previous registration is within 6 months of the application.

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 and each resident in the home who will have child care responsibilities 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 under Regulation .02B(4) and (5) of this chapter, if the new location is within the office's same licensing jurisdiction;

(d) Results of the original child and adult abuse and neglect clearances conducted under Regulation .02B(6) of this chapter, if the clearances were completed within 12 months of the application; and

(e) Individual's original completion of:

(i) Preservice training requirements specified at COMAR 13A.15.06.02A; and

(ii) If applicable, approved continued training requirements specified at COMAR 13A.15.06.02B.

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

A. 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 home proposed for use as a family 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:

(1) Issue a certificate of registration to operate the family 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 home meet the requirements of this subtitle;

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

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

### .07 Denial of a Registration Application.

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

(1) The applicant, a resident, any substitute, or the home 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 certificate of 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 home and surrounding premises, the office finds conditions that are unsafe or unhealthy;

(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) In addition to the requirements set forth at §B of this regulation, an evaluation of the criminal record of the applicant, a paid additional adult, a paid substitute, or a resident in the home reveals that the individual has a criminal conviction, probation before judgment, or not criminally responsible disposition, or is awaiting a hearing for a criminal charge that indicates other 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, an additional adult, 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 finds evidence that raises reasonable doubt that the applicant can provide for the welfare of children in care; or

(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. The office shall deny a certificate of registration to an applicant who has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

(1) A crime involving:

(a) A child;

(b) Cruelty to animals;

(c) Domestic violence; or

(d) A weapons or firearms violation of federal or state laws;

(2) A sex offense;

(3) A violent crime classified as a felony;

(4) Abduction or kidnapping;

(5) Abuse of a child or an adult;

(6) Confinement of an unattended child;

(7) Manufacturing, distributing, or dispensing a controlled dangerous substance;

(8) Perjury;

(9) Pornography;

(10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or

(11) Reckless endangerment.

C. 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.

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

E. 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 or §B 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.

### .08 Voluntary Surrender of Registration.

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

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

(1) The office shall note in the family child care 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 13A.15.03 Management and Administration

### .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 family child care home is registered; and

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

### .02 Admission to Care.

A. The provider may not admit a child to the home for child care or allow a child to remain in care unless the provider has received:

(1) An emergency form for the child as required in Regulation .04A(1) of this chapter; and

(2) Unless the child is temporarily admitted or retained pursuant to §D of this regulation:

(a) A written report of a health assessment of the child on a form supplied or approved by the office; and

(b) Evidence, on a form supplied or approved by the office, that the child has had immunizations appropriate for the child's age that meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene.

B. If a child is younger than 6 years old at the time of admission to the home, the provider may not allow the child to remain in care at the home 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.

C. A family child care provider who also provides treatment foster care in the home may not admit a child for treatment foster care in the home unless the child is being placed in the home in a preadoptive capacity.

D. Temporary Admission.

(1) A provider may temporarily admit or retain a child in care if the child's parent or guardian is unable to provide documentation of immunization as required in §A(2)(b) of this regulation.

(2) For a child to be temporarily admitted or retained in care, the parent or guardian shall present evidence of the child's appointment with a health care provider or local health department to:

(a) Receive a medical evaluation to include, if applicable, a lead screening;

(b) Receive a required immunization;

(c) Acquire evidence of age-appropriate immunizations on a form approved by the office; or

(d) Reconstruct a lost record.

(3) The date of appointment, set pursuant to §D(2) of this regulation, may not be later than 20 calendar days following the date the child was temporarily admitted or retained in care.

(4) A provider shall exclude from care a child who has been temporarily admitted or retained in care if the parent fails to provide the documentation required by §A(2) of this regulation within 3 business days after the date of the appointment made pursuant to §D(2) of this regulation.

### .03 Program Records.

The provider shall:

A. 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;

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

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

B. For each child enrolled in care, maintain a written record of each day's attendance in care that is verified by the child's parent;

C. Maintain a record of each day on which a substitute provides care for more than 2 hours;

D. If applicable, maintain a record of each volunteer in the family child care program that includes:

(1) The date on which the volunteer received the child health and safety orientation required in COMAR 13A.15.06.05A(2); and

(2) If the volunteer is present at the 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;

E. Document that, on or before the date of a child's admission to care, the child's parent was given, or was advised how to obtain, information that is supplied by the office concerning:

(1) Consumer education on child care; and

(2) How to file a complaint with the office against a child care provider.

F. Record the date and time of each fire evacuation drill and emergency and disaster drill required by this subtitle; and

G. Maintain each document and record required by this regulation for at least 2 years after its creation.

### .04 Child Records.

A. The provider shall:

(1) Maintain emergency information for each child on a form supplied or approved by the office;

(2) Keep the emergency forms for the children who currently are in the provider's care in a readily accessible location, including taking the forms when taking the children away from the home;

(3) Arrange to have the form for each child updated as needed, but at least annually, and signed and dated by the parent.

A-1. Before the provider or substitute permits a child to:

(1) Swim or wade, the provider shall obtain written approval from the child's parent on a form supplied or approved by the office;

(2) Travel to or from school or a school transportation site without adult supervision, the child's parent and the provider shall agree in writing that the child can travel safely without adult supervision;

(3) Be transported in a vehicle by the provider or substitute, the provider shall obtain written permission from the child's parent to transport the child;

(4) Participate in an activity out of the home that is supervised by the provider or substitute, the provider shall obtain written approval from the child's parent on a form supplied or approved by the office;

(5) Participate in a supervised activity out of the home without the provider or substitute, the provider shall obtain written permission from the child's parent for the child's participation; or

(6) Participate in a service or activity conducted on the premises of the family child care home by an independent contractor, the provider shall obtain from the child's parent written permission for the child's participation.

B. During the period of a child's enrollment and for 2 years after the child's disenrollment, a provider shall maintain a file for each child that includes records of:

(1) The name, current address, and home and work telephone numbers of the parent;

(2) The child's health assessment, immunizations, and allergies, if any, to include:

(a) If the child is younger than 6 years old, evidence that the child has received an appropriate lead screening as required by State or local law; and

(b) If the child is enrolled in school, parental permission for the school to release the child's health information to the provider;

(3) Acute illnesses that required excluding the child from care under COMAR 13A.15.11.02B;

(4) An injury or accident that is required by Regulation .05B of this chapter to be reported;

(5) Child medication records as required by COMAR 13A.15.11.04; and

(6) Written information concerning the child's individual needs that is supplied by the child's parent at or before the child's admission to care and is:

(a) Used by the provider to meet the child's individual care needs; and

(b) Reviewed by the provider and the parent at least every 12 months after the child's admission to care.

C. A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly from another registered family child care home, a licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §B(2) of this regulation.

### .05 Notifications.

The provider or substitute shall:

A. Within 24 hours of its occurrence, notify the office of:

(1) The death of a child, if the child died:

(a) While in the care of the provider or substitute; or

(b) Of a contagious disease; and

(2) Any injury to a child that occurs while the child is at the family child care home in the care of the provider or substitute that results in:

(a) The child being treated by a medical professional;

(b) The child being admitted to a hospital; or

(c) The death of the child;

B. If a child has an injury or accident while in attendance:

(1) Report immediately to the child's parent any serious injury or accident; and

(2) Report any nonserious injury or accident to the child's parent on the same day it occurs;

C. Notify the office immediately of any change that might affect the status of the registration, such as:

(1) A change in residents, operation, telephone number, or the provider's residence;

(2) A pending criminal charge against:

(a) An individual who has responsibilities for supervising children in care; or

(b) A resident in the home; or

(3) Any other situation involving the home that may present a risk to the health, safety, or welfare of children in care there, including, but not limited to, a report of domestic violence or the issuance of a protective order involving the provider or a resident in the home;

D. Within 5 working days after an existing resident becomes 18 years old, or after there is a new resident in the home 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 and adults for information about the resident; and

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

E. Within 15 working days after notifying the office of a new resident, submit to the office:

(1) A medical report on the resident, on a form supplied or approved by the office, that is based on a medical evaluation completed within the previous 12 months; or

(2) Evidence that a medical evaluation of the resident has been scheduled; and

F. When the provider plans a temporary absence of more than 2 hours, notify the parents of the children in care in advance that a substitute will be caring for the children during the provider's absence.

G. Within 10 business days of receiving notice of a contaminated drinking water supply, send a written notice of the drinking water contamination to the parent or legal guardian of each child enrolled that:

(1) Identifies the contaminants and their levels; and

(2) Describes how the provider will furnish uncontaminated drinking water for children in care until the original water supply is determined by the appropriate authority to be safe for consumption.

### .06 Variances.

A. The office may not:

(1) Waive a regulation; or

(2) Grant a variance that diminishes safeguards to a child's health, safety, or well-being.

B. The office may grant a variance:

(1) If the provider presents clear and convincing evidence that a regulation is met by an alternative that complies with the intent of the regulation for which the variance is sought; and

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

C. 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.

D. 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 13A.15.04 Operational Requirements

### .01 Hours of Care.

A. 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.

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.

### .02 Age Group Enrollment.

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

### .03 Child Capacity.

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

B. Care may not be provided at any one time to more than two children younger than 2 years old unless approved by the office.

C. Whenever more than two children younger than 2 years old are present in care, an additional adult shall be present who has met the applicable requirements of COMAR 13A.15.06.04.

D. The maximum total capacity of a family child care home may not exceed eight children, of whom not more than four may be younger than 2 years old.

E. 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 home if the child:

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

(b) Cannot be sent home immediately.

### .04 Restriction of Operations.

A. Upon determining that any of the following is unsuitable for the 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;

(3) Number and ages of residents in the 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 by a provider approved for a capacity of up to four children younger than 2 years old to meet the infant-toddler training requirement specified at COMAR 13A.15.06.02G; 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 §A 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 13A.15.05 Home Environment and Equipment

### .01 Suitability of the Home.

The home shall:

A. Comply with all applicable State and local fire, zoning, health, safety, and environmental codes;

B. Be in good repair;

C. Be free of health or safety hazards, including infestation by insects and rodents;

D. Have operable and safe utility services for lighting, heating, and cooking;

E. Have hot and cold running water, with a hot water temperature that does not exceed 120° F;

F. Have a toilet in good working condition that is readily accessible to children in care;

G. Have an operable refrigerator and stove; and

H. Have an operable telephone.

### .02 Lead-Safe Environment.

A. A provider may not use paint with lead content on any:

(1) Exterior or interior surface of the home; or

(2) Material or equipment used for child care purposes.

B. If the home is a residential rental property constructed before 1950, which is an affected property as defined in Environment Article, §6-801(b), Annotated Code of Maryland, the provider shall submit a copy of the current lead risk reduction or lead-free certificate.

C. If the home was constructed before 1978 and not certified lead-free under Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, the provider shall:

(1) Ensure there is no chipping, peeling, flaking, chalking, or deteriorated paint on any surface of an interior or exterior area of the home that is used for child care;

(2) If deterioration of a surface in an area used for child care is noted, or if renovation of the premises occurs that disturbs a painted surface, arrange to have a lead-dust test:

(a) Conducted by an accredited visual inspector under COMAR 26.16.02.03B to meet the risk reduction standard, if the home is an affected property; or

(b) Conducted in areas used for child care by an accredited risk assessor under COMAR 26.16.05.11, if the home is not an affected property; and

(3) If a lead-dust test is required under §C(2) of this regulation, obtain:

(a) A passing score on that test; and

(b) Verification from the lead inspector performing the test that the requirements of §C(2) and (3)(a) of this regulation have been met.

D. In a home constructed before 1978 that is not certified lead-free under Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, when performing a renovation that disturbs the painted surface of an interior or exterior area used for child care, the provider shall ensure that the work is performed by an individual accredited to perform the lead paint abatement services using safe work practices as required by Environment Article, Title 6, Subtitle 10, Annotated Code of Maryland, and corresponding regulations.

### .03 Cleanliness and Sanitation.

A. All areas of the home, including food preparation, service, and storage areas shall be maintained in a state of cleanliness so as not to endanger the children's health.

B. Paper towels, a trash receptacle, soap, and toilet paper shall be placed within reach of a child capable of using the toilet without assistance.

C. Trash, garbage, and wet or soiled diapers shall be disposed of in a clean and sanitary manner.

D. After toileting and diapering, before food preparation and eating, after playing outdoors, after handling animals, and at other times when necessary to prevent the spread of disease, the provider or substitute shall:

(1) Wash the provider's or substitute's hands thoroughly with soap and warm running water; and

(2) Ensure that a child's hands are washed thoroughly, by the provider or by the child, with soap and warm running water.

E. To assist in preventing the spread of disease, the provider or substitute shall:

(1) Promptly change a child's diaper, clothing, and bedding when soiled or wet;

(2) Follow diapering procedures designed to prevent the transmission of disease, which are established and supplied by the office; and

(3) Maintain the surface used for diapering in a clean and sanitary manner.

F. If used, portable toilets, also known as potty-chairs, shall be:

(1) Placed on a nonabsorbent surface or mat;

(2) Located away from food preparation, food service, and eating areas; and

(3) Cleaned and sanitized after each use in accordance with procedures established by the office.

### .04 Rooms Used for Care.

A. The provider may use an area of the home for child care only if it:

(1) Has been approved for use by the office;

(2) Meets the requirements of all applicable fire codes;

(3) Does not have a condition that may pose a risk to the health, safety, or welfare of the children in care;

(4) Has windows or artificial lighting that provides sufficient illumination for a child's activities;

(5) Has natural or mechanical ventilation to provide a healthy and comfortable environment;

(6) Has sufficient floor area for the number and ages of the children approved for care in the home to allow the children to engage in active play without overcrowding; and

(7) Has a room temperature of not less than 65° F.

B. In rooms where a child younger than 5 years old is in care, the provider shall arrange the home so that:

(1) All electrical sockets within reach of a child are plugged or capped;

(2) Suitable protective barriers are placed at locations accessible and potentially hazardous to children; and

(3) Child-proof devices are placed on cabinets and drawers that contain items potentially hazardous to children.

C. Window Coverings. A window covering installed:

(1) Before October 1, 2010, shall not have unsecured cords, beads, ropes, or strings that are accessible to a child in care; or

(2) On or after October 1, 2010, shall be cordless.

D. In a home approved to provide care for infants or toddlers, the provider shall designate space for mothers to breastfeed or express breast milk that:

(1) Is not located in a bathroom;

(2) Has access to an electrical outlet;

(3) Has appropriate seating;

(4) Has access to running water; and

(5) Accommodates a mother’s need for privacy.

### .05 Outdoor Activity Area.

A. There shall be ample, accessible space for outdoor activity that is free from conditions that may be dangerous to the health or safety of children in care.

B. If required by the office, the outdoor activity area shall be enclosed to protect children in care from accessible hazards such as a heavily trafficked area, a body of water, or environmental hazards.

### .06 Rest Furnishings.

A. The home shall have clean linen and adequate furnishings for rest periods that are comfortable, durable, safe, and appropriate for the ages of the children in care.

B. Each child shall have an individual place to rest that is not used by any other child or resident unless the linens are changed between users.

C. The provider shall furnish for each child approved for care in the home who is:

(1) Younger than 12 months old, a crib, portable crib, or playpen; or

(2) At least 12 months old and younger than 5 years old, a bed, cot, mat, or sleeping bag, except as provided in §D of this regulation.

D. Upon request by the child's parent, the provider shall furnish a crib, portable crib, or playpen as the resting place of a child who is at least 12 months old and younger than 2 years old.

E. Each crib, portable crib, and playpen that is used for child care shall meet the standards of the U.S. Consumer Product Safety Commission.

F. Soft bedding items, including but not limited to pillows, quilts, comforters, and crib bumpers, may not be used as rest furnishings for a child who uses a crib.

G. Each child in overnight care, if provided, shall:

(1) Sleep in a separate bed or crib that is appropriate to the child's age, size, and needs; and

(2) Have separate clean linens and toiletries.

## COMAR 13A.15.06 Provider Requirements

### .01 Minimum Age.

To be approved as a family child care provider, an individual shall be 18 years old or older.

### .02 Training Requirements.

A. Preservice Training. An individual who applies for an initial registration shall:

(1) Hold a current certificate indicating successful completion of training in approved:

(a) Basic first-aid through the American Red Cross, or a program with equivalent standards; and

(b) Cardiopulmonary resuscitation (CPR) through the American Heart Association, or a program with equivalent standards, appropriate for each age group approved for care in the home;

(c) If requesting approval to provide care for children younger than 24 months old, present evidence of having successfully completed, within 5 years before the date of the request, approved training in Sudden Infant Death Syndrome; and

(2) Provide documentation of having successfully completed:

(a) Within 2 years before the application for initial registration is filed, at least 24 clock hours of approved training that includes 4 clock hours in each of the six core of knowledge competencies;

(b) The 90 clock hour course, or its approved equivalent, that satisfies the preservice training requirement for a child care teacher or child care center director under COMAR 13A.16.06.05B(4), .09(A)(1)(b), or .10B(1)(a), as applicable;

(c) Department of Defense training modules for child care providers;

(d) The Child Development Associate Credential issued by the Council for Professional Recognition;

(e) An associate's degree that includes at least 15 semester hours of early childhood education or elementary education course work;

(f) A bachelor's or higher degree in early childhood education, elementary education, or other discipline approved by the office; or

(g) Other course work approved by the office;

(3) Complete approved training on emergency and disaster planning; and

(4) If applying on or after January 1, 2016, complete:

(a) Approved training in supporting breastfeeding practices;

(b) 3 clock hours of approved training in complying with the Americans with Disabilities Act; and

(c) Approved training in medication administration.

B. Continued Training. A provider shall successfully complete:

(1) During the first year of registration, 18 clock hours of approved training specified by the office; and

(2) By the end of each 12-month period after the first full year of registration, a total of 12 clock hours of approved continued training that consists of:

(a) At least 6 clock hours of core of knowledge training; and

(b) Not more than 6 clock hours of elective training.

C. Emergency and Disaster Planning Training.

(1) The office shall not approve an initial registration application unless the applicant has completed approved training on emergency and disaster planning.

(2) To maintain an initial registration or a continuing registration approved before July 1, 2010, a provider shall complete approved training on emergency and disaster planning as directed by the office, if the provider has not already completed that training.

D. Professional Development Plan.

(1) The provider shall maintain a professional development plan.

(2) Training completed by the provider under §B of this regulation shall be:

(a) Consistent with the provider's professional development plan; and

(b) Documented by the provider on the professional development plan.

E. Current certification in approved basic first aid and CPR training as specified in §A(1)(a) and (b) of this regulation shall be maintained at all times by:

(1) The provider; and

(2) If applicable, the additional adult.

F. Sudden Infant Death Syndrome (SIDS) Training.

(1) The office may not approve a request by an applicant or a provider to provide care for children younger than 24 months old unless the applicant or provider has met the requirements of §A(1)(c) of this regulation.

(2) SIDS training may not be used to satisfy the continued training requirements set forth in §B of this regulation.

G. Infant-Toddler Training.

(1) Effective July 1, 2010, the office shall not approve a request by an applicant or a provider for an infant-toddler capacity of more than two children younger than 2 years old unless the individual has completed 3 semester hours or 45 clock hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old.

(2) A provider approved before July 1, 2010, for an infant-toddler capacity of more than two children younger than 2 years old shall complete, by December 31, 2010, 3 semester hours or 45 clock hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old in order to maintain that approval.

H. Medication Administration Training. Effective January 1, 2016:

(1) The office may not approve an application for an initial registration or a continuing registration unless the applicant has completed medication administration training approved by the office; and

(2) A currently registered provider shall have completed medication administration training approved by the office.

### .03 Provider Substitute.

A. The provider shall designate at least one substitute who is available on short notice to care for the children.

B. Approval by Office.

(1) An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.

(2) If information received by the office indicates that an individual designated as a substitute may present a risk to the health, safety, or welfare of children in care, the office may disapprove the use of that substitute.

C. Use of Substitutes.

(1) A provider may use a substitute to:

(a) Provide care for children during a temporary absence of the provider; and

(b) Assist in providing care while the provider is present.

(2) Unless the office approves an additional number of days in advance, the use of substitutes to provide care in the provider's absence is limited to a total of not more than 20 working days in any 12-month period, counting only days on which substitute care is provided for more than 2 hours.

D. A substitute shall:

(1) Be 18 years old or older;

(2) Be familiar with this subtitle;

(3) Complete, sign, and submit to the office the required forms for substitutes, which include permission to examine records of abuse and neglect of children and adults;

(4) If paid, apply for a federal and State criminal background check at a designated law enforcement office in the State; and

(5) Present no risk to the health, safety, or welfare of children.

E. Before allowing a substitute to provide or to assist in providing care, the provider shall orient the substitute to child health and safety matters, including, but not limited to:

(1) The location of the:

(a) Telephone and emergency telephone numbers;

(b) First aid supplies; and

(c) Child emergency forms;

(2) Medication administration information for each child authorized to receive medication;

(3) Modified diet information for each child placed on a modified diet;

(4) Emergency evacuation procedures;

(5) Permissible and appropriate child discipline procedures;

(6) Authorized child release procedures; and

(7) Procedures for documenting and reporting child injuries and accidents.

F. During the provider's absence, a substitute is responsible for meeting the requirements of this subtitle regarding the:

(1) Supervision and protection of each child in care; and

(2) Operation of the family child care home.

### .04 Additional Adult.

A. Except as set forth in §B of this regulation, before an individual may be used as an additional adult, the provider shall ensure that the individual:

(1) Is 18 years old or older;

(2) Attends an information session presented by the office concerning the requirements of this subtitle for the care of children younger than 2 years old;

(3) Files with the office:

(a) A completed additional adult application form;

(b) Signed and notarized release forms giving the office permission to examine records of abuse and neglect of children and adults for information about the applicant;

(c) Completed information, on a form supplied by the office, for each of the applicant's substitutes; and

(d) A medical report on the applicant based on a medical evaluation conducted within the previous 12 months by a practicing physician, certified nurse practitioner, or registered physician's assistant, and signed by the individual who conducted the evaluation;

(4) If the individual will be paid, applies for a federal and State criminal background check at a designated office in the State;

(5) Holds a current certificate indicating successful completion of approved basic first aid and CPR training applicable to children younger than 2 years old; and

(6) Presents evidence of having completed approved SIDS training within the previous 5 years.

B. A provider may not use an individual as an additional adult unless the office has approved the individual in that capacity.

### .05 Volunteers.

A. Before permitting an individual to begin volunteer duties at the family child care home, the provider shall:

(1) Ensure that the individual presents no risk to the health, safety, or welfare of children; and

(2) Conduct a child health and safety orientation for the individual that meets the requirements set forth in Regulation .03E of this chapter.

B. The provider, substitute, or additional adult shall accompany a volunteer whenever the volunteer is in the presence of an unrelated child in care.

C. A volunteer who is younger than 18 years old may not be permitted to work with a child in care who is younger than 2 years old.

## COMAR 13A.15.07 Child Protection

### .01 Prohibition of Abuse, Neglect, and Injurious Treatment.

A child in care may not be subjected to abuse, neglect, mental injury, or injurious treatment as defined in COMAR 13A.15.01.02B.

### .02 Abuse/Neglect Reporting.

An individual who is responsible for providing care to a child:

A. Shall monitor the child for signs and symptoms of child abuse or neglect; and

B. If the individual has reason to believe that a child in care has been:

(1) Abused, shall report that belief directly to the protective services unit of the local department of social services or to a law enforcement agency, as required under Maryland law; or

(2) Neglected, shall report that belief directly to the protective services unit of the local department of social services as required under Maryland law.

### .03 Applicability to Residents.

The requirement set forth in Regulation .01 of this chapter also applies to a resident of the family child care home.

### .04 Child Discipline.

A. Child discipline shall be:

(1) Appropriate to the age, maturity, and physical condition of the child; and

(2) Consistent with the requirements of this subtitle.

B. The provider or substitute may not:

(1) Force a child to eat or drink;

(2) Punish a child for refusing to eat or drink; or

(3) Withhold food or beverages as punishment.

### .05 Parental Access.

The provider or substitute shall permit the parent of a child in care to have access to the child at all times and to observe the areas of the home used for child care during the provider's hours of operation.

### .06 Authorized Release.

A. Except as indicated in §B of this regulation, the provider or substitute shall release a child only to the child's parent or to another individual if directed by the parent and if the identity of the other individual is verified by the provider or substitute.

B. In case of the death, disappearance, incapacity, or sudden unavailability of the parent or individual designated to pick up the child, or when requested by Child Protective Services, the provider or substitute may release the child to a Child Protective Services worker.

### .07 Child Security.

A. The provider shall ensure the safety and security of each child at all times.

B. Whenever an area of the home is being used for a child care activity and children are present, the provider may not allow that area to be used at the same time for any other purpose without prior approval of the office.

C. In addition to meeting all other child supervision requirements of this subtitle, the provider shall ensure that an individual who meets the requirements of this subtitle for supervising children in care:

(1) Accompanies a child whenever the child is in the presence of an individual at the home who is not:

(a) Another individual who meets the requirements of this subtitle for supervising children in care;

(b) The child's parent, guardian, or other individual to whom the child may be released under Regulation .06 of this chapter;

(c) An individual who is authorized by the child's parent or guardian, and whose identity is verified by the provider, to provide a health care, educational, or other service to the child;

(d) Another child enrolled in care; or

(e) A child who resides at the home; and

(2) Remains within sight and sound of an independent contractor performing a service at the home whenever the independent contractor is in an area where a child is present, unless documentation is on file at the family child care home that the contractor has successfully passed federal and State criminal background checks and a review of child abuse and neglect records.

## COMAR 13A.15.08 Child Supervision

### .01 General Supervision.

A. An individual may not have responsibility for supervising a child in care unless the individual meets the requirements of this subtitle pertaining to a provider, substitute, or additional adult, as applicable.

B. Except as provided in Regulation .02C and D of this chapter, when a child is in attendance, the individual responsible for supervising the child shall at all times:

(1) Be alert and responsive;

(2) Know where the child is;

(3) Be able to see or hear the child;

(4) Be near enough to the child to render immediate assistance; and

(5) Provide supervision that is appropriate to the individual age, needs, capabilities, activities, and location of the child and may include, but not be limited to:

(a) Making reasonable accommodations for a child with special needs in accordance with applicable federal and State laws; and

(b) If applicable, allowing an adult who provides specialized services to a child in care having special needs to provide those services at the home in accordance with the child's individualized education plan, individualized family services plan, or written behavioral plan.

C. The provider or substitute shall:

(1) Remain inside the home while a child in care younger than 6 years old is present inside the home; and

(2) Accompany a child in care who is younger than 6 years old whenever the child is outside of the home.

D. Supervision of Resting Children.

(1) If a resting or napping child is younger than 2 years old, the provider or substitute shall:

(a) Remain within sight and sound of the child; and

(b) Observe the child at least every 15 minutes to determine that the child is safe, breathing normally, and in no physical distress.

(2) If a resting or napping child is 2 years old or older, the child:

(a) May be on a different level of the home from the provider or substitute if:

(i) That level is approved by the office for child care use; and

(ii) The provider has informed the child's parent that the child is permitted to be on a different level of the home; and

(b) Shall be observed by the provider or substitute to ensure the child's safety and comfort at intervals appropriate to the child's age and individual need.

(3) If a resting or napping child is in a different room from the provider or substitute and that room can be closed off from the rest of the home by a door, screen, or similar furnishing, the provider or substitute shall ensure that the door, screen, or similar furnishing remains open so that the view into the room is unobstructed.

E. The provider may use a video and sound monitoring system to meet the sound and sight requirement in §D(1)(a) of this regulation.

F. A child may not be left unattended on the premises of the home, in a motor vehicle, or during an off-site activity.

### .02 Off-Site Supervision.

A. During an off-site activity, the provider or substitute shall exercise reasonable care to protect children from potentially hazardous areas and situations.

B. If the outdoor activity space is not on the premises, the provider or substitute shall accompany and supervise a child of any age in transit to and from the space and while at the space.

C. Before a child may participate in a supervised activity out of the home without the provider or substitute, responsibility for the child's whereabouts and supervision shall be clearly assigned throughout the period of the activity.

D. A child in care may not travel to or from school or a school transportation site without adult supervision unless the child is in the first or a higher grade.

#### .03 Supervision of Resting Children.

To determine if a resting child is safe, breathing normally, and in no physical distress:

A. Each resting child shall be observed at intervals appropriate to the child's age and individual needs; and

B. A resting child younger than 12 months old shall be observed at least every 15 minutes.

### .04 Water Activity Supervision.

A. A child engaged in swimming or wading shall be under immediate supervision by the provider or substitute at all times.

B. Whenever children are engaged in a swimming activity, at least two adults permitted to have child care responsibilities under this subtitle shall be present during the activity.

C. When water is over a child's chest and the child cannot swim, the provider or substitute shall be in the water with the child to provide one-to-one supervision.

D. When water is more than 4 feet deep, an individual 16 years old or older who holds a current certificate of approval for lifeguarding from the American Red Cross, YMCA, or other organization acceptable to the office or the local health department shall be present and on duty at all times while a child is in the water. A provider, substitute, or approved additional adult with the requisite certification may fulfill this requirement.

E. Even when a certified lifeguard is present, the provider or substitute shall retain responsibility for appropriate supervision of each child engaged in swimming or wading.

### .05 Overnight Care Supervision.

A. If overnight care is provided, the provider or substitute shall, throughout the period of care:

(1) Remain on the premises;

(2) Remain on the same level of the home as the children in care; and

(3) Respond to the feeding schedule, sleep habits, sleep disturbances, and age-appropriate bedtime routine of each child in care.

B. If overnight care is provided to four or more children at the same time, the provider or substitute shall remain alert and awake at all times.

## COMAR 13A.15.09 Program Requirements

### .01 Activities.

A. The provider shall prepare, post, and follow a written schedule of daily activities and offer activities that:

(1) Promote the sound emotional, social, intellectual, and physical growth of each child;

(2) Are appropriate to the age, needs, and capabilities of the individual child;

(3) Include opportunities for individual and group participation;

(4) Include a balance between self-selected and provider-directed activities;

(5) Include a balance between active and quiet periods;

(6) Include periods of rest appropriate to the age, needs, and activities of the child; and

(7) Include outdoor play in the morning and afternoon, except that outdoor play need not be included:

(a) When the weather is inclement; or

(b) If the provider is only caring for school age children before school hours.

B. Screen Time Activities.

(1) Definitions. In this section, the following terms have the meanings indicated:

(a) “Interactive technology” means educational and age-appropriate technology, including programs, applications (apps), noncommercial television programming, videos, streaming media, and ebooks, that is designed to:

(i) Facilitate active and creative use of technology; and

(ii) Encourage social engagement with other children and adults.

(b) “Passive technology” means noninteractive television, videos, and streaming media.

(2) Limited use of appropriate interactive technology may support, but may not replace, creative play, physical activity, hands-on exploration, outdoor experiences, social interactions, and other developmentally appropriate learning activities for children 2 years old or older.

(3) Viewing Restrictions. Except as set forth in §B(4) of this regulation, a child in attendance who is:

(a) Younger than 2 years old may not be permitted to view any passive technology; and

(b) 2 years old or older may not be permitted to view more than 30 minutes of age-appropriate, educational passive technology per week.

(4) Exceptions.

(a) An occasional exception to the weekly passive technology viewing limit set forth in §B(3) of this regulation may be made for a special event or project, including a holiday or birthday celebration, or for educational content that is related to the family child care home’s curriculum.

(b) If an exception to the weekly passive technology viewing limit is made, a written record of the exception shall be made and retained on file that documents the:

(i) Nature and duration of the programming viewed; and

(ii) Reason for the exception.

(5) No child may be permitted to view any:

(a) Passive or interactive technology during a meal or a snack; or

(b) Media with brand placement or advertising for unhealthy or sugary food or beverages.

(6) The provider shall give the parent of each enrolled child a written screen time policy that addresses the use of passive and interactive technology during child care hours.

### .02 Materials and Equipment.

A. Activity materials shall:

(1) Be developmentally appropriate, in good repair, clean, nontoxic, and free from hazards including lead paint; and

(2) Support learning in:

(a) Language and literacy;

(b) Mathematical thinking;

(c) Scientific thinking;

(d) Social studies;

(e) Creative arts and dramatic play; and

(f) Gross motor and small motor skills.

B. The variety and quantity of materials and equipment for indoor and outdoor activities shall be adequate to implement the requirements of Regulation .01A of this chapter.

### .03 Rest Periods.

Each child shall be provided periods of rest appropriate to the age, needs, and activities of the child.

## COMAR 13A.15.10 Child Safety

### .01 Emergency Safety.

The provider or substitute shall:

A. Prepare and maintain a written emergency and disaster plan that:

(1) Establishes procedures for:

(a) Evacuating the home, including an evacuation route;

(b) Relocating children to a designated safe site;

(c) Sheltering in place in the event that evacuation is not feasible;

(d) Notifying parents of children in care; and

(e) Addressing the individual needs of children, including children with special needs;

(2) Contains:

(a) The name of, and contact information for, the local emergency operations center;

(b) A list of local emergency services numbers; and

(c) The radio station call sign and frequency for the local Emergency Alert System (EAS);

(3) Is practiced with children at least:
(a) Once per month for fire evacuation purposes;
(b) Twice per year for other emergency and disaster situations;
(c) If overnight care is provided, at least four times per year when children in overnight care are present; and
(4) Is updated at least annually;
B. Post conspicuously a copy of the emergency escape route floor plan:
(1) In or near the approved child care area; and
(2) If overnight care is provided, in each room where a child in care is sleeping;
C. Regularly orient children, who are old enough to understand, in procedures to be used in the event of a fire or other emergency requiring escape from the home;
D. Train each substitute and, if applicable, the additional adult on the contents of the written emergency and disaster plan required at §B of this regulation;
E. In the event of a declared emergency, be prepared to respond as directed by the local emergency management agency through sources of public information;
F. During an emergency evacuation or practice, take attendance records out of the home and verify the presence of each child currently in attendance;
G. Instruct children in the use of the 9-1-1 telephone number to summon help in an emergency; and
H. Meet the following requirements for first aid supplies:
(1) Maintain first aid supplies as the office requires in a location that is readily accessible to the areas of the home approved for child care;
(2) Store first aid supplies in a manner that makes them inaccessible to children in care; and
(3) Bring the first aid supplies along on any activity away from the family child care home.

### .02 Potentially Hazardous Items.

The provider shall properly store, and keep inaccessible to the children in care, all potentially harmful items, including, but not limited to, knives, sharp tools, firearms, matches, alcoholic beverages, petroleum, flammable products, cleaning agents, and poisonous products.

### .03 Outdoor Safety.

A. The provider or substitute may not allow a child to play on climbing equipment from which the child could fall 7 feet or more to the ground.
B. During an outdoor activity, the provider or substitute may not allow a child to:
(1) Use unsafe activity equipment;
(2) Use activity equipment in an unsafe manner; or
(3) Wear a clothing item or accessory that may pose a hazard to the child while engaged in the activity.
C. The provider shall ensure that children use suitable protective gear when engaged in an activity for which protective gear is required by law.
D. Trampolines. The provider or substitute:
(1) May not allow a child in care to use a trampoline; and
(2) Shall make a trampoline located on the premises of the home inaccessible to children in care.

### .04 Water Safety.

A. A provider or substitute may permit children in care to use only swimming facilities that:
(1) Are subject to State or local standards of health, sanitation, and safety; and
(2) Meet those standards.
B. A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool, that does not have an operable circulation system approved by the local health department.

### .05 Transportation Safety.

If children are transported in a vehicle while in care, the provider or substitute shall ensure that, as specified by Maryland law:
A. Each child in care is separately secured in a child car seat or seat belt; and
B. Each child car seat or seat belt is appropriate for the age and weight of the child using it.

### .06 Rest Time Safety.

A. Unless specified otherwise in writing by the child's physician, a child who:
(1) Cannot roll over without assistance shall be placed for sleep on the child's back; or
(2) Is younger than 12 months old but can roll over unassisted shall be placed for sleep on the child's back, but may be allowed to adopt whatever position the child prefers for sleep.

B. Unless the need for a positioning device that restricts a child's movement while the child is resting is specified in writing by the child's physician, an object or device, including, but not limited to, a strap, wedge, or roll, that restricts movement may not be used with a child in a crib, portable crib, playpen, cot, bed, mat, or other rest furnishing.

## COMAR 13A.15.11 Health

### .01 Child Comfort and Welfare.

The provider or substitute shall:

A. Dress a child appropriately, both indoors and outdoors, for the temperature of the environment and the activity of the child;

B. During an indoor or outdoor activity:

(1) Monitor each child for signs of discomfort due to over-activity, temperature or weather conditions, or other environmental factors; and

(2) If a child is experiencing discomfort, take appropriate steps to alleviate the discomfort; and

C. Ensure that each child has adequate time for meals and snacks.

### .02 Exclusion for Acute Illness.

A. The provider or substitute shall:

(1) Monitor children for signs and symptoms of acute illness; and

(2) Notify immediately a child's parent or other person designated on the child's emergency card upon observing a sign or symptom of acute illness.

B. The provider or substitute may not allow a child to enter or remain in care if the child is exhibiting symptoms of acute illness such as, but not limited to:

(1) Vomiting;

(2) Fever;

(3) Seizures;

(4) Severe pain; or

(5) Diarrhea.

### .03 Infectious and Communicable Diseases.

A provider or substitute may not knowingly care for a child who has a serious transmissible infection or communicable disease during the period of exclusion for that infection or disease shown on a list provided by the office.

### .04 Medication Administration and Storage.

A. Medication Administration.

(1) Medication, whether prescription or non-prescription, may not be administered to a child in care unless:

(a) Parental permission to administer the medication is documented on a completed, signed, and dated medication authorization form, provided by the office, that is received by the provider or substitute before the medication is administered; and

(b) A licensed health practitioner has approved the administration of the medication and the medication dosage.

(2) A prescription medication may not be administered to a child unless at least one dose of the medication has been given to the child at home.

(3) If medication is by prescription, it shall be labeled by the pharmacy or physician with:

(a) The child's name;

(b) The date of the prescription;

(c) The name of the medication;

(d) The medication dosage;

(e) The administration schedule;

(f) The administration route;

(g) If applicable, special instructions, such as “take with food”; and

(h) The duration of the prescription; and

(i) An expiration date that states when the medication is no longer useable.

B. Topical Applications. A diaper rash product, sunscreen, or insect repellent supplied by a child's parent may be applied without prior approval of a licensed health practitioner.

C. Medication shall be administered according to the instructions on the label of the medication container or a licensed health practitioner's written instructions, whichever are more recently dated.

D. Recording Requirements.

(1) Each administration of a prescription or non-prescription medication to a child, including self-administration of a medication by the child, shall be noted in the child's record.

(2) Application of a diaper rash product, sunscreen, or insect repellent supplied by a child's parent shall be noted in the child's record.

E. Medication Storage.

(1) Each medication shall be:

(a) Labeled with the child's name, the dosage, and the expiration date;

(b) Stored as directed by the manufacturer, the dispensing pharmacy, or the prescribing physician; and

(c) Discarded according to guidelines of the Office of National Drug Control Policy or the U.S. Environmental Protection Agency, or returned to the child's parent upon expiration or discontinuation.

(2) All medications shall be stored to make them inaccessible to children in care but readily accessible to the provider, substitute, or additional adult.

F. Self-Administration of Medication.

(1) Before a child may self-administer medication while in care, a provider shall:

(a) Have a written order from the child's physician and the written request of the child's parent for the child's self-administration of medication;

(b) In consultation with the child's parent, establish a written procedure for self-administration of medication by the child based on the physician's written order; and

(c) Authorize the child to self-administer medication.

(2) Revocation of Authorization to Self-Administer.

(a) A provider may revoke a child's authorization to self-administer medication if the child fails to follow the written procedure required by §F(1)(b) of this regulation.

(b) Immediately upon revoking the child's authorization to self-administer medication, the provider shall notify the child's parent of that revocation.

(c) The provider shall document the revocation of authorization to self-administer and the notification to the child's parent in the child's record.

G. Effective January 1, 2016, medication may be administered to a child in care only by an individual who has completed approved medication training, unless:

(1) The individual is a registered nurse, licensed practical nurse, or medication technician certified by the Maryland Board of Nursing to administer medication to children in care; or

(2) Responsibility for administering medication to children in care has been delegated to the individual by a delegating nurse in accordance with COMAR 10.27.11.

### .05 Smoking.

A. If a resident of the family child care home smokes cigarettes, cigars, or pipes, the provider shall make this known in advance to parents who are considering placing their children in the provider's care.

B. Smoking Restrictions.

(1) A provider and any other individual who has child care responsibilities may not smoke in the immediate presence of a child in care.

(2) During the family child care home's approved hours of operation, if an enrolled child is or will be on the premises, the provider may not smoke or permit smoking anywhere inside the home.

C. The provider or substitute shall ensure that all cigarettes, cigars, pipes, ashes, and butts are kept out of the reach of the children in care.

### .06 Consumption of Alcohol and Drugs.

A provider, substitute, or additional adult may not consume an alcoholic beverage or an illegal or nonprescribed controlled dangerous substance while:

A. Present at the family child care home during the home's approved hours of operation; or

B. Providing or assisting with the care of children on or away from the premises of the family child care home.

## COMAR 13A.15.12 Nutrition

### .01 Nutrition and Food Served.

A. Food and beverages that are furnished by a provider for meals or snacks, or both, shall comply with the guidelines of the Child and Adult Care Food Program of the U.S. Department of Agriculture, as indicated on a chart supplied by the office.

B. For children in care, the provider shall furnish:

(1) All beverages, including beverages for meals and snacks; and

(2) Milk with all meals.

C. A beverage furnished by the provider may not contain an added sweetener or caffeine, except for:

(1) Infant formula: or

(2) A beverage prescribed for a child by a health care provider.

D. If the child is:

(1) Younger than 2 years old, milk furnished to the child shall be supplied or approved by the child's parent; or

(2) 2 years old or older, milk furnished to the child by the provider shall be 1% fat milk or nonfat milk, unless otherwise ordered by a health care provider or requested by the child's parent.

E. The provider may arrange with the child's parent to furnish milk of a type that is different from the milk ordinarily furnished by the provider.

F. Except during approved hours of overnight care, a provider shall serve meals and snacks at intervals of not more than 3 hours according to the following schedule:

| If a child is at providers home for: | The child shall receive at least: |
|---|---|
| Less than 4 consecutive hours | 1 snack |
| 4 to 7 consecutive hours | 1 meal and 1 snack |
| 7 to 11 consecutive hours | 1 meal and 2 snacks or 2 meals and 1 snack |
| 11 to 14 consecutive hours | 2 meals and 2 snacks or 3 meals and 1 snack |

G. If a provider chooses not to provide meals, the provider shall make arrangements with the parent of each child to provide food for meals.

### .02 Food Storage and Cleanliness.

The provider or substitute shall:

A. Transport, store, prepare, display, and serve food in a safe, sanitary, and healthful manner;

B. Refrigerate perishable foods such as meat, milk, and dairy products at or below 40°F; and

C. As soon as a child has finished eating, discard any remaining food that has come into contact with:

(1) The child's mouth; or

(2) A utensil used by the child for eating.

## COMAR 13A.15.13 Inspections, Complaints, and Enforcement

### .01 Inspections.

A. The office shall inspect each family child care home:

(1) On an announced basis before issuing a certificate of initial registration or continuing registration; and

(2) On an unannounced basis, at least once within each 12-month period after the date that a certificate of initial registration or continuing registration was issued to the provider.

B. The provider or substitute shall permit inspection of all areas of the home by the agency representative during the provider's hours of operation.

C. The agency representative may make inspections, in addition to the announced and unannounced inspections specified in §A of this regulation, without prior notice to the provider.

D. Upon request, the provider or substitute shall make the records required by this subtitle available to the agency representative for inspection and copying.

E. A provider or substitute may request satisfactory identification from the agency representative before admitting the person for an inspection.

F. A provider may appeal a finding of noncompliance with this subtitle by requesting a review of findings by the regional office or the central office of the Agency.

### .02 Complaints.

The office shall investigate:

A. Both written and oral complaints that relate to a potential violation of a regulation under this subtitle, including anonymous complaints; and

B. Complaints of unregistered family child care.

### .03 Warnings.

If an investigation of a complaint or an inspection of a family child care home indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:

A. The violation found, citing the regulation;

B. The time period for correcting the violation; and

C. That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the registration.

### .04 Intermediate Sanctions.

A. Upon determining that a provider has violated or a home fails to meet any of the regulations of this subtitle, the office may:

(1) Restrict the age or number of children accepted for care;

(2) Reduce the number of children in care;
(3) Require the provider to receive remedial instruction in a specified content area;
(4) Increase the frequency of monitoring of the home during a specified period of time;
(5) Enter into an agreement with the provider detailing requirements in addition to those above, including time limits for compliance; and
(6) Notify, or require the provider to notify, a parent of a child who may be affected by the situation for which a sanction has been imposed.

B. If the office determines that the provider has violated a condition or requirement of the intermediate sanction, the office may suspend or revoke the registration.

### .05 Nonemergency Suspension.

A. The office may suspend the certificate of registration, for a period of not more than 60 calendar days, upon determining that:
(1) The provider or home is in violation of any of the regulations under this subtitle and that the health, safety, or welfare of a child in the home is threatened; or
(2) If the registration is a continuing registration that was placed on conditional status, the:
(a) Conditional status has lapsed; and
(b) Provider has failed to meet the requirements for lifting the conditional status.

B. The office shall notify the provider in writing of the suspension at least 20 calendar days before the effective date stating:
(1) The effective date and period of the suspension;
(2) The reason for suspension;
(3) The regulation with which the provider has failed to comply that is the basis for the suspension;
(4) Corrections required to ensure reinstatement of the certificate of registration;
(5) That the provider shall stop providing child care on the effective date of the suspension unless the provider requests a hearing;
(6) That the provider is entitled to a hearing if requested in writing within 20 calendar days of the delivery of the notice;
(7) The procedure to be used if the provider wishes to request a hearing to appeal the decision of the office;
(8) That the suspension shall be stayed if a hearing is requested;
(9) That, if the suspension is upheld following the hearing, the provider shall cease providing child care for the period of the suspension;
(10) That the suspension may lead to revocation; and
(11) That the provider is required to surrender the certificate of registration to the office when the suspension becomes effective.

C. The office shall notify the parents of the children in care of the suspension.

D. By the end of the suspension period, the office shall:
(1) Reinstate the certificate of registration and return it to the provider; or
(2) Revoke the certificate of registration.

### .06 Emergency Suspension.

A. The office may immediately suspend the certificate of registration for a period of not more than 45 calendar days upon finding that a child's health, safety, or welfare imperatively requires emergency action.

B. The office shall hand-deliver a written notice to the provider informing the provider of the emergency suspension, giving the reasons for the action, and notifying the provider of the right to request, within 30 days of the delivery of the notice, a hearing before the Superintendent's designee.

C. When the certificate of registration is to be suspended immediately:
(1) The office shall repossess the certificate of registration;
(2) The provider shall stop providing child care immediately; and
(3) The office shall notify the parents of the children in care of the suspension and make every reasonable effort to assist the parents of the children in making other child care arrangements.

D. If a hearing is requested by the provider, the Superintendent's designee shall hold a hearing within 7 calendar days of the date of the request.

E. Within 7 calendar days of the hearing, a decision concerning the emergency suspension shall be made by the Superintendent's designee.

F. If the decision does not uphold the emergency suspension, the provider may resume providing child care.

G. By the end of the suspension period, the office shall:
(1) Reinstate the certificate of registration and return it to the provider; or
(2) Revoke the certificate of registration.

### .07 Revocation.

A. The office may revoke a certificate of registration if the:

(1) Provider or home is in violation of one or more of the regulations under this subtitle and the health, safety, or welfare of a child in the home is threatened;

(2) Provider misrepresented or offered false information on the application or on any form or report required by the office;

(3) Provider interferes with or obstructs the agency representative in the performance of the duties of the office;

(4) Provider fails to submit all documentation required to maintain the certificate of registration;

(5) Provider or substitute refuses to permit access to a child or to the space in the home used for child care by a parent or an agency representative during operating hours of the child care home;

(6) Terms or conditions of a sanction have been violated;

(7) Registration is a continuing registration that was placed on conditional status, and the:

(a) Conditional status has lapsed; and

(b) Provider has failed to meet the requirements for lifting the conditional status;

(8) Provider, an additional adult, a substitute, or a resident is identified as responsible for abuse or neglect of children or adults;

(9) Provider, an additional adult, a substitute, or a resident has a criminal conviction, probation before judgment, or a not criminally responsible disposition, or is awaiting a hearing on a charge for a crime that:

(a) Is listed at COMAR 13A.15.02.07B(1)—(11); or

(b) Indicates other behavior harmful to children;

(10) Provider fails to comply with the child security requirements set forth in COMAR 13A.15.07.07;

(11) Provider permits an individual to have child supervision responsibilities after being notified by the office that the individual has been disapproved for that purpose;

(12) Evaluation of information provided to or acquired by the office indicates that the provider is unable to care for the welfare of children;

(13) Provider who also provides treatment foster care in the home admits a child for treatment foster care in the home, unless the child is placed in the home in a preadoptive capacity, and

(14) The family child care home is no longer the primary residence of the provider.

B. If the office decides to revoke a certificate of registration, the office shall notify the provider in writing at least 20 calendar days in advance of the revocation, stating:

(1) The effective date of the revocation;

(2) The reason for the revocation;

(3) The regulation with which the provider has failed to comply that is the basis for the revocation;

(4) That the provider shall stop providing child care on the effective date of the revocation;

(5) That the provider is entitled to a hearing if requested in writing within 20 calendar days of the delivery of the notice;

(6) The procedure to be used if the provider wishes to request a hearing to appeal the decision of the office;

(7) The revocation shall be stayed if the hearing is requested, unless the revocation immediately follows an emergency suspension period; and

(8) That the provider is required to surrender the certificate of registration to the office when the revocation becomes effective.

C. The office shall notify the parents of the children in care of the revocation.

### .08 Penalties.

A. An individual found to be operating a family child care home, or advertising a family child care service, without a valid family child care registration is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

(1) $1,500 for the first violation; and

(2) $2,500 for a second or subsequent violation.

B. The office may institute legal proceedings to:

(1) Enjoin any individual not registered who is providing family child care from continuing to operate; or

(2) Ask a court in the jurisdiction of the family child care home to impose a fine of up to the maximum amount permitted by law on an individual found to be operating in violation of this subtitle.

### .09 Civil Citations.

A. The office may issue a civil citation imposing a civil penalty to an individual who provides unregistered family child care in violation of the requirements of this subtitle.

B. Assessment of Penalty.

(1) Subject to §B(3) of this regulation, an individual to whom a civil citation is issued is subject to a civil penalty in the amount of:

(a) $250 for the first violation;

(b) $500 for the second violation; and

(c) $1,000 for the third and each subsequent violation.

(2) Each day that unregistered family child care occurs in violation of the requirements of this subtitle is a separate violation under this regulation.

(3) The total amount of civil penalty imposed against an individual in an action under this regulation may not exceed $5,000.

C. An individual against whom a civil penalty has been imposed under this regulation shall pay the full amount of the penalty promptly to the Department, as instructed by the civil citation or as otherwise directed by the office.

D. Appeals.

(1) An individual may appeal the imposition of a civil penalty under this regulation by filing an appeal with the office as instructed by the civil citation or as otherwise directed by the office.

(2) Appeals are conducted in accordance with the provisions of COMAR 13A.15.14.

## COMAR 13A.15.14 Administrative Hearings

### .01 Scope.

A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact on family child care registrations, such as registration denials, revocations, suspensions, reductions in capacity, or limitations on the ages or numbers of children who may be admitted to a family child care home.

B. The Superintendent has delegated authority to administrative law judges of the Office of Administrative Hearings to make the final decisions of the Superintendent on those actions listed in §A of this regulation. A decision by an administrative law judge of the Office of Administrative Hearings in a family child care registration case is the final decision of the highest administrative authority in the case and thus is directly appealable to the circuit court in the jurisdiction where the family child care home is located, pursuant to State Government Article, §10-222, Annotated Code of Maryland.

### .02 Definitions.

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

B. Terms Defined.

(1) "Administrative law judge" means a hearing officer designated by the Maryland Office of Administrative Hearings to render the final decision of the Superintendent in a hearing.

(2) "Appellant" means the individual requesting the hearing or appealing a decision, or that individual's legal representative.

(3) "Applicant" means an individual applying for a registration to operate a family child care home.

(4) "Capacity" means the number of day care children who may be in care at a family child care home at the same time.

(5) "Days" means calendar days.

(6) "Department" means the State Department of Education.

(7) Emergency Action.

(a) "Emergency action" means an action which is effective immediately because of danger to children's health or safety.

(b) "Emergency action" may include an emergency suspension, an immediate reduction in capacity, and an immediate limitation on the ages or numbers of children who may be admitted to care.

(8) "Filed" means received in writing by the Office of Child Care.

(9) "Filing date" is the date a hearing request is received by the Office of Child Care.

(10) "Office" means the central office or a regional office of the Office of Child Care.

(11) "Office of Administrative Hearings" means the administrative unit of Maryland government which is responsible for processing requests for hearings, for scheduling and conducting hearings, and for rendering decisions pursuant to State Government Article, §9-1601 et seq., Annotated Code of Maryland.

(12) "Party" means the appellant and the Office of Child Care.

(13) "Provider" means a person registered to provide family child care.

(14) "Registration" means a certificate issued by the Department which gives a person legal permission to operate a family child care home.

(15) "Superintendent" means the State Superintendent of Schools.

### .03 Hearing Requests.

A. A hearing shall be held when an applicant or provider requests a hearing to contest:

(1) The denial of an application for registration;

(2) A revocation or suspension of a registration; or

(3) Any other action that adversely impacts on registration, including, but not limited to:

(a) The setting of a provider's capacity at a number below that requested,

(b) A reduction in capacity, or

(c) A limitation on the ages or numbers of children who may be admitted to the family child care home.

B. Non-emergency Action Hearing Requests.

(1) All non-emergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the provider, and the effective date and nature of the action appealed from.

(2) A hearing request shall be filed not later than 20 days after the date of the notice of the action taken by the Office.

(3) The Office shall forward a hearing request to the Office of Administrative Hearings within 10 days of the filing date.

(4) A hearing decision shall be rendered by the Office of Administrative Hearings within 90 days of the filing date.

(5) Any non-emergency action is stayed if a hearing request is timely filed, unless the action is:

(a) A revocation which immediately follows an emergency suspension period; or

(b) A denial which follows the expiration of the provisional period of a registration that was issued on a provisional basis.

C. Emergency Action Hearing Requests.

(1) All emergency action hearing requests shall be filed with the Office within 30 days of the hand-delivery of the notice of the Office's action, and shall state the name and address of the provider, and the effective date and action appealed from.

(2) The Office shall notify the Office of Administrative Hearings at once upon receipt of an emergency action hearing request. Oral notification shall be followed by written notification within 24 hours.

(3) A hearing shall be conducted within 7 days of the filing date of the hearing request.

(4) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.

(5) The filing of a hearing request may not stay an emergency action.

### .04 Preliminary Conference.

A. The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.

B. The conference is optional and does not replace the hearing process.

C. The conference may be attended by a representative of the Office, the appellant, and the appellant's representative.

D. The conference may lead to an informal resolution of the dispute. However, a hearing shall be held unless one of the parties submits a written withdrawal of the hearing request to the Office of Administrative Hearings.

### .05 Denial or Dismissal of a Hearing Request.

A. The Office of Administrative Hearings may deny a request for a hearing if:

(1) The issue appealed is not one which adversely affects the registration of a family child care home; or

(2) The date of the request is not within the required time limits.

B. The Office of Administrative Hearings may dismiss an appeal if the appellant:

(1) Withdraws the request in writing; or

(2) Without good cause, does not appear at the hearing.

### .06 Hearing and Appeal Procedures.

A. Notice to Appellant.

(1) For non-emergency hearings, the Office of Administrative Hearings shall, by regular mail, notify the Office and the appellant of the time, date, and place of the hearing at least 20 days in advance. For rescheduled non-emergency hearings, a 10-day notice is required. For all emergency action hearings, at least 3 days advance notice is required.

(2) The notice to the appellant shall:

(a) Refer to the regulations governing the hearing procedure; and

(b) Advise the appellant of:

(i) The right to be represented by a lawyer;

(ii) The right to present documents and witnesses in support of the appeal;

(iii) Whom to call if the appellant cannot attend the hearing; and

(iv) The fact that failure to attend the hearing without good cause may lead to dismissal.

(3) The Office shall mail the appellant a copy of these administrative hearing regulations when the request for a hearing is filed.

B. Rescheduling of Non-emergency Action Hearings. The appellant, the Office, or the Office of Administrative Hearings may request a change in the hearing date. If the Office of Administrative Hearings finds that good cause for delay exists, another date shall be set. The time limit for rendering a decision established by Regulation .03B(4) is extended by the period of delay due to a postponement requested by the appellant.

C. Rescheduling of Emergency Action Hearings. Emergency action hearings may only be rescheduled by the Office of Administrative Hearings with the consent of both parties or on motion of a party, if substantial prejudice is demonstrated. Only one postponement of an emergency action hearing may be granted.

D. The appellant may examine the appellant's family child care registration record for the purpose of discovering information pertinent to the appeal before the hearing.

E. By agreement, the appellant and the Office may exchange witness lists and documents before the hearing.

F. The procedures in §§D and E of this regulation do not constitute good cause for delay of a hearing.

### .07 Conduct of Hearing.

A. The hearing shall be conducted by an administrative law judge.

B. At the hearing, the appellant and a representative of the Office may present witnesses, documentary evidence, and oral argument and may cross-examine any witness. A document introduced into evidence by a party may be examined by the opposing party.

C. The transcript or tape of the proceedings, together with all documents filed in the hearing proceedings and the final decision of the administrative law judge, constitute the exclusive record of the hearing.

### .08 Decision.

A. The administrative law judge shall:

(1) Base the decision on the complete record; and

(2) Determine whether the Office correctly applied State regulations in effect at the time it reached its decision.

B. The final decision of the administrative law judge shall be accompanied by findings of fact and conclusions of law.

C. The final decision shall be binding upon the Department and shall be implemented immediately unless otherwise specifically indicated in the decision.

D. The decision of the Office of Administrative Hearings in cases under this chapter constitutes the decision of the Department.

E. A copy of the decision shall be delivered or mailed promptly to each party or the attorney of record.

F. A party dissatisfied with the decision of the administrative law judge may appeal that decision directly to the circuit court of the appropriate jurisdiction within 30 days from the date notice of the decision is sent to the party, or as otherwise provided in Maryland Rules 7-201—7-211.

## COMAR 13A.15.15 Public Access to Licensing Records

### .01 Definitions.

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

B. Terms Defined.

(1) "Confirmed complaint" means a determination by the Department or office after an investigation that the violation of a regulation of this subtitle that was alleged in the complaint has occurred or is occurring.

(2) "Custodian of record" means an authorized individual employed by the Department or office who has physical custody and control of licensing records.

(3) "Licensing records" means all papers, computerized records, correspondence, forms, books, cards, photographs, photostats, films, microfilms, sound recordings, charts, maps, drawings, or other written documents, regardless of physical form or characteristics, maintained or stored by the Department or the office in connection with the registering of a person or a family child care home to provide child care.

(4) "Official custodian of record" means the Superintendent or the Superintendent's designee who is responsible for the maintenance, care, and storage of the Department's licensing records.

(5) "Requester" means an individual, business, corporation, partnership, association, organization, or governmental agency that requests inspection of, or information from, licensing records.

(6) "Sociological information" means any of the following information about a licensee or employee of a licensee:

(a) Social Security number;

(b) Personal address;

(c) Personal phone number;

(d) Information regarding marital status, dependents, or relatives; and

(e) Information regarding employment status, including employment application.

(7) "Unsubstantiated complaint" means a complaint of an alleged violation of a regulation of this subtitle that the Department or office, after an investigation, has been unable to confirm as having occurred or to rule out as not having occurred.

### .02 Disclosure of Information from Licensing Records.

A. Except as prohibited or restricted by applicable law or regulation, the custodian of record may make the following information from licensing records available to a requester:

(1) Findings of inspections conducted by the office in registered family child care homes;

(2) Records of complaint forms pertaining to confirmed or unsubstantiated complaints;

(3) Copies of certificates of registration, including those on provisional or conditional status;
(4) Variances;
(5) Correspondence and documents requiring abatement of noncompliances with the regulations of this subtitle, including compliance agreements;
(6) Correspondence and documents pertaining to enforcement actions taken by the Department or office against a family child care provider or a family child care home, including denial letters, sanctions, emergency suspensions, and revocations; and
(7) Correspondence regarding requests for inspection of licensing records under this regulation.

B. The custodian of record may not disclose sociological information to a requester, except that this information may be disclosed:
(1) To public employees in the performance of their public duties;
(2) To parties litigating claims for unemployment insurance to the extent the sociological information would be available to private parties in litigation; or
(3) When required by a duly issued subpoena.

### .03 Request for Information from Licensing Records.

A. A written request shall be filed with the custodian of record in order to:
(1) Conduct a physical inspection of licensing records; or
(2) Obtain a written or electronic:
(a) Copy of licensing records; or
(b) Report of information from licensing records that the official custodian of records does not already make available to the general public.

B. The written request shall:
(1) Contain the applicant's name, address, and telephone number;
(2) Be signed by the applicant; and
(3) Reasonably identify by brief description the record sought.

C. A request may be made in any form or format if it does not involve:
(1) Physical inspection of licensing records; or
(2) Preparation of a written or electronic:
(a) Copy of licensing records; or
(b) Report of information from licensing records.

D. The custodian of record may charge a reasonable fee for:
(1) The reproduction of documents sought;
(2) Official or employee time expended searching for requested records; or
(3) Any time expended in preparing records for inspection or copying.

### .04 Compelling Public Purpose.

A compelling public purpose shall exist for the custodian of record to permit inspection of licensing records other than the records specified under State Government Article, §10-617(h)(2), Annotated Code of Maryland.