

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Child Care Commission intends to adopt the rule cited as 10A NCAC 09 .0607; and amend the rules cited as 10A NCAC 09 .0102, .0302, .0604, .0707, .0804, .1003, .1701, .1705, .1720, .1721, .1723, .2318, .2404, and .2829.*

**Agency obtained G.S. 150B-19.1 certification:**

- OSBM certified on:** *February 11, 2014*
- RRC certified on:**
- Not Required**

**Pursuant to G.S. 150B-19.1(c), the agency has posted on its website the following:**

- Text of proposed rule posted at:** [http://ncchildcare.dhhs.state.nc.us/general/mb\\_ccrulespublic.asp](http://ncchildcare.dhhs.state.nc.us/general/mb_ccrulespublic.asp)
- Explanation and reason for proposed rule posted at:** [http://ncchildcare.dhhs.state.nc.us/general/mb\\_ccrulespublic.asp](http://ncchildcare.dhhs.state.nc.us/general/mb_ccrulespublic.asp)
- Federal Certification posted at:** *N/A*
- Instructions for oral and written comments posted at:** [http://ncchildcare.dhhs.state.nc.us/general/mb\\_ccrulespublic.asp](http://ncchildcare.dhhs.state.nc.us/general/mb_ccrulespublic.asp)
- Fiscal Note if prepared posted at:** [http://ncchildcare.dhhs.state.nc.us/general/mb\\_ccrulespublic.asp](http://ncchildcare.dhhs.state.nc.us/general/mb_ccrulespublic.asp) and [http://www.osbm.state.nc.us/files/pdf\\_files/DHHS02112014.pdf](http://www.osbm.state.nc.us/files/pdf_files/DHHS02112014.pdf)

**Proposed Effective Date:** *October 1, 2014*

**Public Hearing:**

**Date:** *May 12, 2014*

**Time:** *1:00 p.m.*

**Location:** *Division of Public Health Campus, 5605 Six Forks Rd, Cardinal Conference Room, Raleigh, NC*

**Reason for Proposed Action:** *The NC Child Care Commission proposes to adopt and amend the Child Care Requirements related to Emergency Preparedness and Response (EPR) to promote the safety of children while in child care and to strengthen the current requirements related to EPR in child care. These rules are written in response to findings reported in the Save the Children Study 2008 that many states including North Carolina do not have regulations that would adequately protect children in emergencies. These rules are 10A NCAC 09 .0102, .0302, .0307, .0604, .0607, .0707, .1701, .1705, .1720, .1721, .2318, and .2829. Proposed amendments to rules 10A NCAC 09 .0804 and .2404 will prohibit taking the temperatures of mildly ill children rectally. Temperatures should be taken under the arm or orally instead of rectally in child care programs due to specific health training that is needed and the potential for abuse. Amendments to rules 10A NCAC 09 .1003 and .1723 will prohibit staff from talking on the cell phone while driving children that are enrolled in child care. Staff should park in a safe location to use the cell phone in the case of an emergency.*

**Comments may be submitted to:** *Dedra Alston, 2201 Mail Service Center, Raleigh, NC 27699-2201, Phone 919-527-6502, Fax 919-662-4570, Email Dedra.Alston@dhhs.nc.gov*

**Comment period ends:** *June 2, 2014*

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- State funds affected**
- Environmental permitting of DOT affected**  
**Analysis submitted to Board of Transportation**
- Local funds affected**
- Substantial economic impact (≥\$1,000,000)**
- No fiscal note required by G.S. 150B-21.4**

**CHAPTER 09 - CHILD CARE RULES**

**SECTION .0100 – DEFINITIONS**

## 10A NCAC 09 .0102 DEFINITIONS

The terms and phrases used in this Chapter are defined as follows except when the context of the rule requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Agency" as used in Section .2200 of this Chapter, means Division of Child Development and Early Education, Department of Health and Human Services located at ~~319 Chapanoke Road, Suite 120, 820 South Boylan Avenue,~~ Raleigh, North Carolina 27603.
- (2) "Appellant" means the person or persons who request a contested case hearing.
- (3) "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project. Other equivalent training shall be approved by the Division.
- (4) "Child Care Program" means a single center or home, or a group of centers or homes or both, that are operated by one owner or supervised by a common entity.
- (5) "Child care provider" as defined by G.S. 110-90.2(a)(2)a. and used in Section .2700 of this Chapter, includes the following employees who have contact with the children in a child care program:
  - (a) facility directors;
  - (b) administrative staff;
  - (c) teachers;
  - (d) teachers' aides;
  - (e) cooks;
  - (f) maintenance personnel; and
  - (g) drivers.
- (6) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (7) "Curriculum" means a curriculum that has been approved as set forth in these Rules by the NC Child Care Commission as comprehensive, evidence-based and with a reading component.
- (8) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (9) "Division" means the Division of Child Development and Early Education within the Department of Health and Human Services.
- (10) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (11) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in ~~June 2012 is twenty one dollars and ninety five cents (\$21.95).~~ February 2014 is twenty-two dollars and ninety-five cents (\$22.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (12) "Experience working with school-aged children" means working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- (13) "Family Child Care Environment Rating Scale – Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in ~~June 2012 is twenty one dollars and ninety five cents (\$21.95).~~ February 2014 is twenty-two dollars and ninety-five cents (\$22.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (14) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- (15) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and this Chapter, using space which is identifiable for each group.
- (16) "Health care professional" means:
  - (a) a physician licensed in North Carolina;
  - (b) a nurse practitioner approved to practice in North Carolina; or
  - (c) a licensed physician assistant.
- (17) "Household member" means a person who resides in a family home as evidenced by factors including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- (18) "If weather conditions permit" means:

- (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from <http://www.idph.state.ia.us/hcci/common/pdf/weatherwatch.pdf>, and is incorporated by reference and includes subsequent editions and amendments;
  - (b) following the air quality standards as set out in 15A NCAC 18A .2832(d). The Air Quality Color Guide can be found on the Division's web site at <http://xapps.enr.state.nc.us/aq/ForecastCenter> or call 1-888-RU4NCAIR (1-888-784-6224); and
  - (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.
- (19) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than thirty months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in ~~June 2012 is twenty one dollars and ninety five cents (\$21.95).~~ February 2014 is twenty-two dollars and ninety-five cents (\$22.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (20) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger.
- (21) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.
- ~~(22)~~ (23) "Lockdown drill" means an emergency safety procedure in which people remain in a locked indoor space and is usually used when threats of a dangerous person near the vicinity occur.
- ~~(22)~~(23) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales:
- (a) the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010; or
  - (b) the School Age Professional Scale (SA Scale) in effect as of May 19, 2010. Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings.
- ~~(23)~~(24) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any NC Community College. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Credential Coursework. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection or copying at no charge during regular business hours.
- ~~(24)~~(25) "Owner" means any person with a five percent or greater equity interest in a child care facility, however stockholders of corporations who own child care facilities are not subject to mandatory criminal history checks pursuant to G.S. 110-90.2 unless they are a child care provider.
- ~~(25)~~(26) "Parent" means a child's parent, legal guardian, or full-time custodian.
- ~~(26)~~(27) "Part-time care" means a child care arrangement where children attend on a regular schedule but less than a full-time basis.
- ~~(27)~~(28) "Passageway" means a hall or corridor.
- ~~(28)~~(29) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.
- ~~(29)~~(30) "Preschooler" or "preschool-age child" means any child who does not fit the definition of school-age child in this Rule.
- ~~(30)~~(31) "School-Age Care Environment Rating Scale" (Harms, Jacobs, and White, 1996, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in ~~June 2012 is twenty one dollars and ninety five cents (\$21.95).~~ February 2014 is twenty-two dollars and ninety-five cents (\$22.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- ~~(31)~~(32) "School-age child" means any child who is attending or who has attended, a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.
- ~~(32)~~(33) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).

~~(33)~~(34) "Section" means Division of Child Development and Early Education.

(35) "Shelter-in-Place drill" means staying where you are to take shelter rather than trying to evacuate. It usually involves selecting a small interior room, with no or few windows, to take refuge when threat of tornado or where hazardous materials have been released in the atmosphere.

~~(34)~~(36) "Substitute" means any person who assumes the duties of a staff person for a time period not to exceed two consecutive months.

~~(35)~~(37) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.

~~(36)~~(38) "Volunteer" means a person who works in a child care facility and is not monetarily compensated by the facility.

Authority G.S. 110-85; 110-88; 143B-168.3.

## SECTION .0300 – PROCEDURES FOR OBTAINING A LICENSE

### 10A NCAC 09 .0302 APPLICATION FOR A LICENSE FOR A CHILD CARE CENTER

(a) An individual that is legally responsible for the operation of ~~the~~ a child care center, including assuring compliance with the licensing law and standards, shall apply for a license for a child care center using the form provided by the Division. The form can be found on the Division's website at [http://ncchildcare.dhhs.state.nc.us/general/mb\\_customerservice.asp](http://ncchildcare.dhhs.state.nc.us/general/mb_customerservice.asp). If the operator will be a group, organization, or other entity, an officer of the entity who is legally empowered to bind the operator shall complete and sign the application.

(b) The applicant shall arrange for inspections of the center by the local health, building and fire inspectors. The applicant shall provide to the Division copies of inspection reports pursuant to G.S. 110-91(1), (4), and (5). When a center does not conform with a building, fire, or sanitation standard, the inspector may submit a written explanation of how equivalent, alternative protection is provided. The Division shall accept the inspector's documentation in lieu of compliance with the standard. Nothing in this Rule precludes or interferes with issuance of a provisional license pursuant to Section .0400 of this Chapter.

(c) The applicant, or the person responsible for the day-to-day operation of the center, shall be able to describe the plans for the daily program, including room arrangement, staffing patterns, equipment, and supplies, in sufficient detail to show that the center shall comply with applicable requirements for activities, equipment, and staff-child ratios for the capacity of the center and type of license requested. The applicant shall make the following written information available to the Division for review to verify compliance with provisions of this Chapter and G.S. 110, Article 7:

- (1) daily schedules;
- (2) activity plans;
- (3) emergency medical care plan;
- (4) discipline policy;
- (5) incident reports; and
- (6) incident logs.

(d) The applicant shall demonstrate to the Division representative that the following is available for review in the center's files:

- (1) staff records which include an application for employment and date of birth; documentation of education, training, and experience; medical and health records; documentation of participation in training and staff development activities; and required criminal history records check documentation;
- (2) children's records which include an application for enrollment; medical and immunization records; and permission to seek emergency medical care;
- (3) daily attendance records;
- (4) daily records of arrival and departure times at the center for each child;
- (5) records of monthly fire drills documenting the date and time of each drill, the length of time taken to evacuate the building, and the signature of the person who conducted the drill;
- (6) records of monthly playground inspections documented on a checklist provided by the Division; ~~and~~
- (7) records of medication ~~administered.~~ administered; and
- (8) records of lockdown or shelter-in-place drills as defined in 10A NCAC 09 .0102 giving the date each drill was held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill.

(e) The Division representative shall measure all rooms to be used for child care and shall assure that an accurate sketch of the center's floor plan is part of the application packet. The Division representative shall enter the dimensions of each room to be used for child care, including ceiling height, and shall show the location of the bathrooms, doors, and required exits on the floor plan.

(f) The Division representative shall make one or more inspections of the center and premises to assess compliance with all applicable requirements as follows:

- (1) if all applicable requirements of G.S. 110, Article 7 and this Section are met, the Division shall issue the license; or
- (2) if all applicable requirements of G.S. 110, Article 7 and this Section are not met, the Division representative may recommend issuance of a provisional license in accordance with Section .0400 of this Chapter or the representative may recommend denial of the application. Final disposition of the recommendation to deny is the decision of the Secretary.

(g) The Secretary may deny an application for a license under the following circumstances:

- (1) if any child care facility license previously held by the applicant has been denied, revoked, or summarily suspended by the Division;
  - (2) if the Division initiated denial, revocation, or summary suspension proceedings against any child care facility license previously held by the applicant and the applicant voluntarily relinquished the license;
  - (3) during the pendency of an appeal of a denial, revocation, or summary suspension of any other child care facility license held by the applicant;
  - (4) if the Division determines that the applicant has a relationship with an operator or former operator who held a license under an administrative action described in Subparagraphs (1), (2), or (3) of this Paragraph. As used in this Rule, an applicant has a relationship with a former operator if the former operator would be involved with the applicant's child care facility in one or more of the following ways:
    - (A) would participate in the administration or operation of the facility;
    - (B) has a financial interest in the operation of the facility;
    - (C) provides care to children at the facility;
    - (D) resides in the facility; or
    - (E) would be on the facility's board of directors, be a partner of the corporation, or otherwise have responsibility for the administration of the business;
  - (5) based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110, Article 7 or this Chapter;
  - (6) if abuse or neglect has been substantiated against the applicant; or
  - (7) if the applicant is a disqualified child care provider or has a disqualified household member residing in the center.
- (h) In determining whether denial of the application for a license is warranted pursuant to Paragraph (g) of this Rule, the Division shall consider:
- (1) any documentation provided by the applicant that describes the steps the applicant will take to prevent reoccurrence of noncompliance issues that led to any prior administrative action taken against a license previously held by the applicant;
  - (2) training certificates or original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing quality child care, and that was taken subsequent to any prior administrative action against a license previously held by the applicant. "Nationally recognized" means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the accrediting bodies;
  - (3) proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;
  - (4) documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; and
  - (5) documentation explaining relationships with persons meeting the criteria listed in Subparagraph (g)(4) of this Rule.

*Authority G.S. 110-85; 110-86; 110-88(2); 110-88(5); 110-91; 110-91(1), (4) and (5); 110-92; 110-93; 110-99; 143B-168.3.*

## **SECTION .0600 – SAFETY REQUIREMENTS FOR CHILD CARE CENTERS**

### **10A NCAC 09 .0604 GENERAL SAFETY REQUIREMENTS**

- (a) In child care centers, potentially hazardous items, such as archery equipment, hand and power tools, nails, chemicals, propane stoves, lawn mowers, and gasoline or kerosene, whether or not intended for use by children, shall be stored in locked areas or with other safeguards, or shall be removed from the premises.
- (b) Firearms and ammunition are prohibited in a licensed child care program unless carried by a law enforcement officer.
- (c) Electrical outlets not in use which are located in space used by the children shall be covered with safety plugs unless located behind furniture or equipment that cannot be moved by a child.
- (d) Electric fans shall be mounted out of the reach of children or shall be fitted with a mesh guard to prevent access by children.
- (e) All electrical appliances shall be used only in accordance with the manufacturer's instructions. For appliances with heating elements, such as bottle warmers, crock pots, irons, coffee pots, or curling irons, neither the appliance nor the cord, if applicable, shall be accessible to preschool-age children.
- (f) Electrical cords shall not be accessible to infants and toddlers. Extension cords, except as approved by the local fire inspector, shall not be used. Frayed or cracked electrical cords shall be replaced.
- (g) All materials used for starting fires, such as matches and lighters, shall be kept in locked storage or shall be stored out of the reach of children.
- (h) Smoking is not permitted in space used by children when children are present. All smoking materials shall be kept in locked storage or out of the reach of children.
- (i) Fuel burning heaters, fireplaces and floor furnaces shall be provided with a protective screen attached securely to supports to prevent access by children and to prevent objects from being thrown into them.
- (j) Plants that are toxic shall not be in indoor or outdoor space that is used by or is accessible to children.
- (k) Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.

- (l) Gas tanks shall be located so they are not accessible to the children or shall be in a protective enclosure or surrounded by a protective guard.
- (m) Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.
- (n) Once a day, prior to initial use, the indoor and outdoor premises shall be checked for debris, vandalism, and broken equipment. Debris shall be removed and disposed.
- (o) Plastic bags, toys, and toy parts small enough to be swallowed, and materials that can be easily torn apart such as foam rubber and styrofoam, shall not be accessible to children under three years of age, except that styrofoam plates and larger pieces of foam rubber may be used for supervised art activities and styrofoam plates may be used for food service. Latex and rubber balloons shall not be accessible to children under five years of age.
- (p) When non-ambulatory children are in care, a crib or other device shall be available for evacuation in case of fire or other emergency. The crib or other device shall be fitted with wheels in order to be easily moveable, have a reinforced bottom, and shall be able to fit through the designated fire exit. For centers that do not meet institutional building code, and the exit is more than eight inches above grade, the center shall develop a plan to ensure a safe and timely evacuation of the crib or other device. This plan shall be demonstrated to a Division representative for review and approval. ~~During the monthly fire drills required by Rule 10A NCAC 09 .0302(d)(4),~~ the required fire, lockdown, or shelter-in-place drills, an evacuation crib or other device shall be used in the manner described in the ~~evacuation plan.~~ Emergency Preparedness and Response Plan as defined in Rule .0607(b) of this Section.
- (q) A first aid kit must always be available on site.
- (r) Fire drills shall be practiced monthly.
- (s) A "shelter in place drill" or "lockdown drill" as defined in Rule .0102 of this Chapter, shall be conducted at least every three months.

*Authority G.S. 110-85; 110-91(3),(6); 143B-168.3.*

#### **10A NCAC 09 .0607 EMERGENCY PREPAREDNESS AND RESPONSE**

- (a) A new administrator or designated staff person shall complete the Emergency Preparedness and Response in Child Care training approved by the Division within the first six months of employment. A current administrator or designated staff person has two years as of the effective date of this Rule to complete the Emergency Preparedness and Response in Child Care training. Verification of completion of the training shall be maintained at the center.
- (b) Upon completion of the Emergency Preparedness and Response in Child Care training, the administrator or designated staff person shall develop and annually review the Emergency Preparedness and Response Plan to ensure all information is current. Emergency Preparedness and Response Plan means a written plan that addresses how a program will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disaster, or a dangerous person in the vicinity, to ensure the safety and protection of the children and staff. This Plan must be on a form provided by the Division and available for review.
- (c) The Emergency Preparedness and Response Plan shall include:
  - (1) written procedures for accounting for all children;
  - (2) a description for how and when children shall be transported;
  - (3) methods for communicating with parents and appropriate emergency response teams;
  - (4) a description of how children's nutritional and health needs will be met;
  - (5) the relocation and reunification process;
  - (6) emergency telephone numbers;
  - (7) evacuation diagrams showing how the staff and children will evacuate during an emergency;
  - (8) the date of the last revision of the plan;
  - (9) specific considerations for non-mobile children and children with special needs; and
  - (10) the location of a Ready to Go File. A Ready to Go File means a collection of information on children, staff and the program, to utilize, if an evacuation occurs. The file shall include, but is not limited to, a list of children, staff and volunteers in attendance, contact information for individuals to pick-up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and staff, staff contact information, Incident Report forms, an area map, and emergency telephone numbers.
- (d) All staff must receive training on the center's Emergency Preparedness and Response Plan during orientation and on an annual basis. Verification of completion of the training shall be maintained at the center.
- (e) All substitutes who are present at the center shall receive orientation on the center's Emergency Preparedness and Response Plan. Verification of completion of the orientation shall be maintained in the provider's personnel file.

*Authority G.S. 110-85.*

### **SECTION .0700 – HEALTH AND OTHER STANDARDS FOR CENTER STAFF**

#### **10A NCAC 09 .0707 IN-SERVICE TRAINING REQUIREMENTS**

- (a) Each center shall assure that each new employee who is expected to have contact with children receives a minimum of 16 clock hours of on-site training and orientation within the first six weeks of employment. This training and orientation shall include:

- (1) training in the recognition of the signs and symptoms of child abuse or neglect and in the employee's duty to report suspected abuse and neglect;
  - (2) review of the center's operational policies, including the center's safe sleep policy for ~~infants~~; infants, the Emergency Preparedness and Response Plan and the emergency medical care plan;
  - (3) adequate supervision of children, taking into account their age, emotional, physical, and cognitive development;
  - (4) first-hand observation of the center's daily operations;
  - (5) instruction in the employee's assigned duties;
  - (6) instruction in the maintenance of a safe and healthy environment;
  - (7) review of the center's purposes and goals;
  - (8) review of the center's personnel policies;
  - (9) review of the child care licensing law and rules;
  - (10) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource; and
  - (11) an explanation of the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations.
- (b) As part of the training required in Paragraph (a) of this Rule, each new employee shall complete, within the first two weeks of employment, six clock hours of the training referenced in Subparagraphs (a)(1), (a)(2), and (a)(3) of this Rule.
- (c) The child care administrator and any staff who have responsibility for planning and supervising a child care program, as well as staff who work directly with children, shall participate in in-service training activities annually, according to the individual's needs as assessed by the child care administrator. Staff shall choose one of the following options for meeting the in-service requirement:
- (1) persons with a four year degree or higher advanced degree in a child care related field of study from a regionally accredited college or university may complete five clock hours of training annually.
  - (2) persons with a two year degree in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Administration Credential or its equivalent may complete eight clock hours of training annually.
  - (3) persons with a certificate or diploma in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Credential or its equivalent may complete 10 clock hours of training annually.
  - (4) persons with at least 10 years documented, professional experience as a teacher, director, or caregiver in a licensed child care arrangement may complete 15 clock hours of training annually.
  - (5) complete 20 clock hours of training annually.
- (d) For staff listed in Subparagraphs (c)(1), (c)(2), (c)(3) and (c)(4) of this Rule, basic cardiopulmonary resuscitation (CPR) training required in Rule .0705 of this Section shall not be counted toward meeting annual in-service training. First aid training may be counted once every three years.
- (e) If a child care administrator or lead teacher is currently enrolled in coursework to meet the staff qualification requirements in G.S. 110-91(8), the coursework may be counted toward meeting the annual in-service training requirement.
- (f) For staff working less than 40 hours per week on a regular basis and choosing the option for 20 hours of in-service training, the training requirement may be prorated as follows:

WORKING HOURS PER WEEK	CLOCK HOURS REQUIRED
0-10	5
11-20	10
21-30	15
31-40	20

Authority G.S. 110-91(11); 143B-168.3.

## SECTION .0800 – HEALTH STANDARDS FOR CHILDREN

### 10A NCAC 09 .0804 INFECTIOUS AND CONTAGIOUS DISEASES

- (a) Centers may provide care for a mildly ill child who has a Fahrenheit temperature of less than 100 degrees axillary, or 101 degrees orally, ~~or 102 degrees rectally~~ and who remains capable of participating in routine group activities; provided the child does not:
- (1) have the sudden onset of diarrhea characterized by an increased number of bowel movements compared to the child's normal pattern and with increased stool water; or
  - (2) have two or more episodes of vomiting within a 12 hour period; or
  - (3) have a red eye with white or yellow eye discharge until 24 hours after treatment; or
  - (4) have scabies or lice; or
  - (5) have known chicken pox or a rash suggestive of chicken pox; or
  - (6) have tuberculosis, until a health professional states that the child is not infectious; or
  - (7) have strep throat, until 24 hours after treatment has started; or

- (8) have pertussis, until five days after appropriate antibiotic treatment; or
  - (9) have hepatitis A virus infection, until one week after onset of illness or jaundice; or
  - (10) have impetigo, until 24 hours after treatment; or
  - (11) have a physician's or other health professional's written order that the child be separated from other children.
- (b) Centers which choose to provide care for mildly ill children shall:
- (1) follow all procedures to prevent the spread of communicable diseases described in 15A NCAC 18A .2800, "Sanitation of Child Day Care Facilities", as adopted by the Commission for Public Health;
  - (2) separate from the other children any child who becomes ill while in care or who is suspected of having a communicable disease or condition other than as described in Paragraph (a) of this Rule until the child leaves the center;
  - (3) notify all parents at enrollment that the center will be providing care for mildly ill children;
  - (4) immediately notify the parent of any child who becomes ill while in care or who is suspected of being ill with a communicable condition other than as described in Paragraph (a) of this Rule that the child is ill and may not remain in care;
  - (5) immediately notify the parent of any sick child in care if the child's condition worsens while the child is in care.

*Authority G.S. 110-91(1),(2); 143B-168.3.*

## **SECTION .1000 – TRANSPORTATION STANDARDS**

### **10A NCAC 09 .1003 SAFE PROCEDURES**

- (a) The driver or other adult in the vehicle shall assure that all children are transferred to a responsible person who is indicated on the child's application as specified in Rule .0801(a)(4) of this Chapter or as authorized by the parent.
- (b) Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be communicated to parents, and a copy shall be posted in the center where they can easily be seen. Centers licensed for three to 12 children located in a residence are not required to post these procedures.
- (c) A first-aid kit shall be located in each vehicle used on a regular basis to transport children. The first-aid kit shall be firmly mounted or otherwise secured if kept in the passenger compartment.
- (d) For each child being transported emergency and identifying information shall be in the vehicle.
- (e) The driver shall:
  - (1) be 21 years old or a licensed bus driver;
  - (2) have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides; and
  - (3) have no convictions of Driving While Impaired (DWI) or any other impaired driving offense within the previous three years.
- (f) Each person in the vehicle must be seated in the manufacturer's designated areas. No child shall ride in the load carrying area or floor of a vehicle.
- (g) Children shall not be left in a vehicle unattended by an adult.
- (h) Children shall be loaded and unloaded from curbside or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards.
- (i) Before children are transported, written permission from a parent shall be obtained which shall include when and where the child is to be transported, expected time of departure and arrival, and the transportation provider.
- (j) Parents may give standing permission, valid for up to 12 months, for routine transport of children to and from the center.
- (k) When children are transported, staff in each vehicle shall have a functioning cellular telephone or other functioning two-way voice communication device with them for use in an emergency. Staff shall not use cellular telephones or other functioning two-way voice communication devices except in the case of an emergency and only when the vehicle is parked in a safe location.
- (l) For routine transport of children to and from the center, staff shall have a list of the children being transported. Staff members shall use this list to check attendance as children board the vehicle and as they depart the vehicle. A list of all children being transported shall also be available at the center.

*Authority G.S. 110-85; 110-91; 110-91(13); 143B-168.3.*

## **SECTION .1700 – FAMILY CHILD CARE HOME REQUIREMENTS**

### **10A NCAC 09 .1701 GENERAL PROVISIONS RELATED TO LICENSURE OF HOMES**

- (a) All family child care homes shall comply with the standards for licensure set forth in this Section. A one- star rated license shall be issued to a family child care home operator who complies with the minimum standards for a license contained in this Section and G.S. 110-91.
- (b) An individual who provides care for five hours or more in a week, during planned absences of the operator, shall be at least 21 years old, have a high school diploma or GED, have completed a first aid and cardiopulmonary resuscitation (CPR) course as described in Rule .1705, Subparagraphs (a)(3), (a)(4), (b)(2), and (b)(3) of this Section, have completed a health questionnaire, have proof of negative results of a tuberculosis test completed within 12 months prior to the first day of providing care, submit criminal records check forms as required in 10A NCAC 09 .2702, and annual in-service training as described in Rule .1705(b)(5) of this

Section. Copies of required information shall be on file in the home available for review and shall be transferable to other family child care homes where the individual is providing care.

(c) An individual who provides care for less than five hours in a week, during planned absences of the operator shall meet all requirements listed in Paragraph (b) of this Rule, except the requirements for annual in-service training and a high school diploma or GED. The individual shall be literate.

(d) The operator shall review the appropriate requirements found in this ~~Chapter~~ Chapter, including the Emergency Preparedness and Response Plan, and in G.S. ~~Chapter 440~~ 110, Article 7 with any individuals who are providing care prior to the individual's assuming responsibility for the children. The operator and individual providing care shall sign and date a statement which attests that this review was completed. This statement shall be kept on file in the home available for review.

(e) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be at least 18 years old and submit criminal records check forms as required in 10A NCAC 09 .2702, Paragraph (j). The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service.

(f) The provisions of G.S. 110-90.2 which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a family child care home are hereby incorporated by reference and shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion shall not apply to parents or other persons who enter the home only for the purpose of performing parental responsibilities; nor does it include persons who enter the home for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.

(g) The parent of a child enrolled in any family child care home subject to regulation under G.S. 110, Article 7 shall be allowed unlimited access to the home during its operating hours for the purposes of contacting the child or evaluating the home and the care provided by the operator. The parent shall notify the operator of his or her presence immediately upon entering the premises.

(h) An operator licensed to care for children overnight may sleep during the nighttime hours when all the children are asleep, provided:

- (1) The operator and the children in care, excluding the operator's own children, are on ground level; and
- (2) The operator can hear and respond quickly to the children if needed; and
- (3) A battery operated smoke detector or an electrically operated (with a battery backup) smoke detector is located in each room where children are sleeping.

(i) Each operator shall develop and adopt a written plan of care for completing routine tasks (including running errands, meeting family and personal demands, and attending classes) to ensure that routine tasks shall not interfere with the care of children during hours of operation. The plan shall:

- (1) Specify typical times for completing routine tasks and include those times on the written schedule, or specify that routine tasks will not occur during hours of operation;
- (2) Specify the names of any individuals, such as additional caregivers or substitutes, who will be responsible for the care of children when the operator is attending to routine tasks;
- (3) Specify how the operator shall maintain compliance with transportation requirements specified in 10A NCAC 09 .1723 if children are transported;
- (4) Specify how parents will be notified when children accompany the operator off premises for routine tasks not specified on the written schedule;
- (5) Specify any other steps the operator shall take to ensure routine tasks will not interfere with the care of children;
- (6) Be given and explained to parents of children in care on or before the first day the child attends the home. Parents shall sign a statement acknowledging the receipt and explanation of the plan. Parents shall also give written permission for their child to be transported by the operator for specific routine tasks that are included on the written schedule. The acknowledgment and written parental permission shall be retained in the child's record as long as the child is enrolled at the home and a copy of each document shall be maintained on file for review by Division representatives.

(j) If the operator amends the written plan, the operator shall give written notice of the amendment to parents of all enrolled children at least 30 days before the amended plan is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's records as long as the child is enrolled in the home and a copy shall be maintained on file for review by Division representatives.

*Authority G.S. 110-85; 110-86(3); 110-88(1); 110-91; 110-99; 110-105; 143B-168.3.*

## **10A NCAC 09 .1705 HEALTH AND TRAINING REQUIREMENTS FOR FAMILY CHILD CARE HOME OPERATORS**

(a) Prior to receiving a license, each family child care home operator shall:

- (1) Complete and keep on file a health questionnaire which attests to the operator's physical and emotional ability to care for children. The Division may require a written statement or medical examination report signed by a licensed physician or other authorized health professional if there is reason to believe that the operator's health may adversely affect the care of the children.
- (2) Obtain written proof that he or she is free of active tuberculosis. The results indicating the individual is free of active tuberculosis shall be obtained within 12 months prior to applying for a license.
- (3) Complete within 12 months prior to applying for a license a basic first aid course that shall address principles for responding to emergencies, and techniques for handling common childhood injuries, accidents and illnesses such as

choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.

- (4) Successfully complete within 12 months prior to applying for a license a course by the American Heart Association or the American Red Cross or other organizations approved by the Division in cardiopulmonary resuscitation (CPR) appropriate for the ages of children in care. Other organizations shall be approved if the Division determines that the courses offered are substantially equivalent to those offered by the American Red Cross. Successfully completed is defined as demonstrating competency, as evaluated by the instructor, in performing CPR. Documentation of successful completion of the course from the American Heart Association, the American Red Cross, or other organization approved by the Division shall be on file in the home.
- (b) After receiving a license, an operator shall:
  - (1) Update the health questionnaire referenced in Paragraph (a) of this Rule annually. The Division may require the operator to obtain written proof that he or she is free of active tuberculosis.
  - (2) Complete a first aid course as referenced in Paragraph (a) of this Rule. First aid training shall be renewed on or before expiration of the certification or every three years, whichever is less.
  - (3) Successfully complete a CPR course as referenced in Paragraph (a) of this Rule. CPR training shall be renewed on or before the expiration of the certification, or every two years, whichever is less.
  - (4) If licensed to care for infants ages 12 months and younger, complete ITS-SIDS training within four months of receiving the license, and complete it again every three years from the completion of previous ITS-SIDS training. Completion of ITS-SIDS training may be included once every three years in the number of hours needed to meet the annual in-service training requirement in Paragraph (b)(5) of this Rule.
  - (5) Complete 12 clock hours of annual in-service training in the topic areas required by G.S. 110-91(11), except that persons with at least 10 years work experience as a caregiver in a child care arrangement regulated by the Division of Child Development and Early Education shall complete eight clock hours of annual in-service training. Only training which has been approved by the Division as referenced in Rule .0708 of this Chapter shall count toward the required hours of annual in-service training. The operator shall maintain a record of annual in-service training activities in which he or she has participated. The record shall include the subject matter, the topic area in G.S. 110-91(11) covered, the name of the training provider or organization, the date training was provided and the number of hours of training completed. First aid training may be counted no more than once every three years.
  - (6) Within six months complete the Emergency Preparedness and Response in Child Care training approved by the Division. Current operators have two years as of the effective date of this Rule to complete the Emergency Preparedness and Response in Child Care training. Verification of completion of the training shall be maintained in the operator's personnel file.
  - (7) Develop and annually review the Emergency Preparedness and Response Plan upon completion of the Emergency Preparedness and Response in Child Care training to ensure all information is current.
    - (A) Emergency Preparedness and Response Plans shall include procedures for accounting for all children; a written description for how and when children shall be transported; methods for communicating with parents and appropriate emergency response teams; a description for how children's nutritional and health needs will be met; the relocation and reunification process; emergency telephone numbers; evacuation diagrams showing how the operator, family members, children and any other individuals who may be present will evacuate during an emergency; the date of the last revision of the plan; specific considerations for non-mobile children and children with special needs; and the location of the Ready to Go File as defined in Rule .0607(c)(10) of this Chapter.
    - (B) The Emergency Preparedness and Response Plan shall be available for review during operating hours.
    - (C) The Emergency Preparedness and Response Plan must be reviewed at least annually with any additional individual who will be caring for the children for more than six hours a week.

Authority G.S. 110-85; 110-88; 110-91; 143B-168.3.

#### **10A NCAC 09 .1720 SAFETY, MEDICATION, AND SANITATION REQUIREMENTS**

(a) To assure the safety of children in care, the operator shall:

- (1) empty firearms of ammunition and keep both in separate, locked storage;
- (2) keep items used for starting fires, such as matches and lighters, out of the children's reach;
- (3) keep all medicines in locked storage;
- (4) keep hazardous cleaning supplies and other items that might be poisonous, e.g., toxic plants, out of reach or in locked storage when children are in care;
- (5) keep first aid supplies in a place accessible to the operator;
- (6) keep tobacco products out of reach or in locked storage when children are in care;
- (7) ensure the equipment and toys are in good repair and are developmentally appropriate for the children in care;
- (8) have a working telephone within the family child care home. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be posted near the telephone;
- (9) have access to a means of transportation that is always available for emergency situations; ~~and~~
- (10) be able to recognize common symptoms of ~~illnesses~~; illnesses;
- (11) conduct a monthly fire drill; and

(12) conduct "shelter in place drill" or "lockdown drill" every - three months.

(b) The operator may provide care for a mildly ill child who has a Fahrenheit temperature of less than 100 degrees axillary or 101 degrees orally and who remains capable of participating in routine group activities; provided the child does not:

- (1) have the sudden onset of diarrhea characterized by an increased number of bowel movements compared to the child's normal pattern and with increased stool water; or
- (2) have two or more episodes of vomiting within a 12 hour period; or
- (3) have a red eye with white or yellow eye discharge until 24 hours after treatment; or
- (4) have scabies or lice; or
- (5) have known chicken pox or a rash suggestive of chicken pox; or
- (6) have tuberculosis, until a health professional states that the child is not infectious; or
- (7) have strep throat, until 24 hours after treatment has started; or
- (8) have pertussis, until five days after appropriate antibiotic treatment; or
- (9) have hepatitis A virus infection, until one week after onset of illness or jaundice; or
- (10) have impetigo, until 24 hours after treatment; or
- (11) have a physician's or other health professional's written order that the child be separated from other children.

(c) The following provisions apply to the administration of medication in family child care homes:

- (1) No prescription or over-the-counter medication and no topical, non-medical ointment, repellent, lotion, cream or powder shall be administered to any child:
  - (A) without written authorization from the child's parent;
  - (B) without written instructions from the child's parent, physician or other health professional;
  - (C) in any manner not authorized by the child's parent, physician or other health professional;
  - (D) after its expiration date; or
  - (E) for non-medical reasons, such as to induce sleep.

(2) Prescribed medications:

- (A) shall be stored in the original containers in which they were dispensed with the pharmacy labels specifying:
    - (i) the child's name;
    - (ii) the name of the medication or the prescription number;
    - (iii) the amount and frequency of dosage;
    - (iv) the name of the prescribing physician or other health professional; and
    - (v) the date the prescription was filled; or
  - (B) if pharmaceutical samples, shall be stored in the manufacturer's original packaging, shall be labeled with the child's name, and shall be accompanied by written instructions specifying:
    - (i) the child's name;
    - (ii) the names of the medication;
    - (iii) the amount and frequency of dosage;
    - (iv) the signature of the prescribing physician or other health professional; and
    - (v) the date the instructions were signed by the physician or other health professional; and
  - (C) shall be administered only to the child for whom they were prescribed.
- (3) A parent's written authorization for the administration of a prescription medication described in Paragraph (c)(2) of this Rule shall be valid for the length of time the medication is prescribed to be taken.
  - (4) Over-the-counter medications, such as cough syrup, decongestant, acetaminophen, ibuprofen, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be stored in the manufacturer's original packaging on which the child's name is written or labeled and shall be accompanied by written instructions specifying:
    - (A) the child's name;
    - (B) the names of the authorized over-the-counter medication;
    - (C) the amount and frequency of the dosages;
    - (D) the signature of the parent, physician or other health professional; and
    - (E) the date the instructions were signed by the parent, physician or other health professional.

The permission to administer over-the-counter medications is valid for up to 30 days at a time, except as allowed in Subparagraphs (c)(6), (7), (8), and (9) of this Rule. Over-the-counter medications shall not be administered on an "as needed" basis, other than as allowed in Subparagraphs (c)(6), (7), (8), and (9) of this Rule.

- (5) When questions arise concerning whether any medication should be administered to a child, the caregiver may decline to administer the medication without signed, written dosage instructions from a licensed physician or authorized health professional.
- (6) A parent may give a caregiver standing authorization for up to six months to administer prescription or over-the-counter medication to a child, when needed, for chronic medical conditions and for allergic reactions. The authorization shall be in writing and shall contain:
  - (A) the child's name;
  - (B) the subject medical conditions or allergic reactions;
  - (C) the names of the authorized over-the-counter medications;
  - (D) the criteria for the administration of the medication;
  - (E) the amount and frequency of the dosages;
  - (F) the manner in which the medication shall be administered;

- (G) the signature of the parent;
  - (H) the date the authorization was signed by the parent; and
  - (I) the length of time the authorization is valid, if less than six months.
- (7) A parent may give a caregiver standing authorization for up to 12 months to apply over-the-counter, topical ointments, topical teething ointment or gel, insect repellents, lotions, creams, and powders --- such as sunscreen, diapering creams, baby lotion, and baby powder --- to a child, when needed. The authorization shall be in writing and shall contain:
- (A) the child's name;
  - (B) the names of the authorized ointments, repellents, lotions, creams, and powders;
  - (C) the criteria for the administration of the ointments, repellents, lotions, creams, and powders;
  - (D) the manner in which the ointments, repellents, lotions, creams, and powders shall be applied;
  - (E) the signature of the parent;
  - (F) the date the authorization was signed by the parent; and
  - (G) the length of time the authorization is valid, if less than 12 months.
- (8) A parent may give a caregiver standing authorization to administer a single weight-appropriate dose of acetaminophen to a child in the event the child has a fever and a parent cannot be reached. The authorization shall be in writing and shall contain:
- (A) the child's name;
  - (B) the signature of the parent;
  - (C) the date the authorization was signed by the parent;
  - (D) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (9) A parent may give a caregiver standing authorization to administer an over-the-counter medication as directed by the North Carolina State Health Director or designee, when there is a public health emergency as identified by the North Carolina State Health Director or designee. The authorization shall be in writing, may be valid for as long as the child is enrolled, and shall contain:
- (A) the child's name;
  - (B) the signature of the parent;
  - (C) the date the authorization was signed by the parent; and
  - (D) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (10) Pursuant to G.S. 110-102.1A, a caregiver may administer medication to a child without parental authorization in the event of an emergency medical condition when the child's parent is unavailable, providing the medication is administered with the authorization and in accordance with instructions from a bona fide medical care provider.
- (11) A parent may withdraw his or her written authorization for the administration of medications at any time in writing.
- (12) Any medication remaining after the course of treatment is completed or after authorization is withdrawn shall be returned to the child's parents. Any medication the parent fails to retrieve within 72 hours of completion of treatment, or withdrawal of authorization, shall be discarded.
- (13) Any time prescription or over-the-counter medication is administered by a caregiver to children receiving care, including any time medication is administered in the event of an emergency medical condition without parental authorization as permitted by G.S. 110-102.1A, the child's name, the date, time, amount and type of medication given, and the name and signature of the person administering the medication shall be recorded. This information shall be noted on a medication permission slip, or on a separate form developed by the provider which includes the required information. This information shall be available for review by a representative of the Division during the time period the medication is being administered and for at least six months after the medication is administered. No documentation shall be required when items listed in Subparagraph (c)(7) of this Rule are applied to children.
- (d) To assure the health of children through proper sanitation, the operator shall:
- (1) collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services every two years. Results of the analysis shall be on file in the home;
  - (2) have sanitary toilet, diaper changing and hand washing facilities. Diaper changing areas shall be separate from food preparation areas;
  - (3) use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet. The operator shall:
    - (A) wash his or her hands before, as well as after, diapering each child;
    - (B) ensure the child's hands are washed after diapering the child; and
    - (C) place soiled diapers in a covered, leak proof container which is emptied and cleaned daily;
  - (4) use sanitary procedures when preparing and serving food. The operator shall:
    - (A) wash his or her hands before and after handling food and feeding the children; and
    - (B) ensure the child's hands are washed before and after the child is fed;
  - (5) wash his or her hands, and ensure the child's hands are washed, after toileting or handling bodily fluids.
  - (6) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature;

- (7) date and label all bottles for each individual child, except when there is only one bottle fed child in care;
  - (8) have a house that is free of rodents;
  - (9) screen all windows and doors used for ventilation;
  - (10) have all household pets vaccinated with up-to-date vaccinations as required by North Carolina law and local ordinances. Rabies vaccinations are required for cats and dogs; and
  - (11) store garbage in waterproof containers with tight fitting covers.
- (e) The operator shall not force children to use the toilet and the operator shall consider the developmental readiness of each individual child during toilet training.
- (f) The operator shall not use tobacco products at any time while children are in care. Smoking or use of tobacco products shall not be permitted indoors while children are in care, or in a vehicle when children are transported.

*Authority G.S. 110-88; 110-91(6).*

#### **10A NCAC 09 .1721 REQUIREMENTS FOR RECORDS**

(a) The operator shall maintain the following health records for each child who attends on a regular basis, including his or her own preschool child(ren):

- (1) a copy of the child's health assessment as required by G.S. 110-91(1);
- (2) a copy of the child's immunization record;
- (3) a health and emergency information form provided by the Division that is completed and signed by a child's parent. The completed form shall be on file the first day the child attends. An operator may use another form other than the one provided by the Division, as long as the form includes the following information:
  - (A) the child's name, address, and date of birth;
  - (B) the names of individuals to whom the child may be released;
  - (C) the general status of the child's health;
  - (D) any allergies or restrictions on the child's participation in activities with instructions from the child's parent or physician;
  - (E) the names and phone numbers of persons to be contacted in an emergency situation;
  - (F) the name and phone number of the child's physician and preferred hospital;
  - (G) authorization for the operator to seek emergency medical care in the parent's absence; and
- (4) when medication is administered, authorization for the operator to administer the specific medication according to the parent's or physician's instructions.

(b) The operator shall complete and maintain other records which include:

- (1) documentation of the operator's Emergency Preparedness and Response Plan procedures in emergency situations, on a form which is provided by the Division;
- (2) documentation that monthly fire drills are practiced. The documentation shall include the date each drill is held, the time of day, the length of time taken to evacuate the home, and the operator's signature;
- (3) incident reports that are completed each time a child receives medical treatment by a physician, nurse, physician's assistant, nurse practitioner, community clinic, or local health department, as a result of an incident occurring while the child is in the family child care home. Each incident shall be reported on a form provided by the Division, signed by the operator and the parent, and maintained in the child's file. A copy shall be mailed to a representative of the Division within seven calendar days after the incident occurs;
- (4) an incident log which is filled out any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by a representative of the Division. This log shall be completed on a form supplied by the Division;
- (5) documentation that a monthly check for hazards on the outdoor play area is completed. This form shall be supplied by the Division and shall be maintained in the family child care home for review by a representative of the Division; ~~and~~
- (6) ~~Accurate~~ accurate daily attendance records for all children in care, including the operator's own preschool children. The attendance record shall indicate the date and time of arrival and departure for each ~~child.~~ child; and
- (7) documentation of lockdown or shelter-in-place drills giving the date each drill is held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill.

(c) Written records shall be maintained as follows:

- (1) All children's records as required in this Chapter, except medication permission slips as required in Rule .1720(c)(13) of this Section, must be kept on file one year from the date the child is no longer enrolled.
- (2) Additional caregiver records as required in this Chapter shall be maintained on file one year from the employee's last date of employment.
- (3) Current program records as required in this Chapter shall be maintained on file for as long as the license remains valid. Prior versions shall be maintained based on the time frame in the following charts:

- (A) A minimum of 30 days from the revision or replacement date:

Record	Rule
Daily Schedule	<del>.1718(13)</del> <u>.1718(7)</u>
Infant Feeding Schedule	<del>.1718(6)</del> <u>.1706(f)</u>
SIDS Sleep Chart/Visual Check	.1724(8)

- (B) A minimum of one year from the revision or replacement date:

Record	Rule
Attendance	.1721 (b)(6)
Emergency Numbers	.1720(a)(8)
Emergency Preparedness and Response Plan Procedures Form	.1721(b)(1)
Field Trip/Transportation Permission	.1723(1)
Fire Drill Log	.1721(b)(2)
Lockdown or Shelter-in-Place Drill Log	.1721(b)(7)
Incident Log	.1721(b)(4)
Playground Inspection	.1721(b)(5)
Pet Vaccinations	.1720(d)(10)

- (4) Well-water analysis, pool inspection and inspections for local ordinances as referenced in Rules .1720(d)(1), .1719(7), and .1702(d) of this Section shall remain on file at the family child care home for as long as the license remains valid.
- (5) Records may be maintained in a paper format or electronically, except that records that require a signature of a staff person or parent shall be maintained in a paper format.
- (6) All records required in this Chapter shall be available for review by a representative of the Division.

Authority G.S. 110-85; 110-88; 110-91(1),(9).

#### **10A NCAC 09 .1723 TRANSPORTATION REQUIREMENTS**

To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:

- (1) have written permission from a parent to transport his or her child and notify the parent when and where the child is to be transported, and who the transportation provider will be.
- (2) ensure that all children regardless of age or location in the vehicle shall be restrained by individual seat belts or child restraint devices. Only one person shall occupy each seat belt or child restraint device.
- (3) be at least 18 years old, and have a valid driver's license of the type required under the North Carolina Motor Vehicle Law for the vehicle being driven, or comparable license from the state in which the driver resides, and no convictions of Driving While Impaired (DWI), or any other impaired driving offense, within the last three years.
- (4) ensure that each child is seated in a manufacturer's designated area.
- (5) ensure that a child shall not occupy the front seat if the vehicle has an operational passenger side airbag.
- (6) never leave children in a vehicle unattended by an adult.
- (7) have emergency and identification information about each child in the vehicle whenever children are being transported.
- (8) not use a cellular telephone or other functioning two-way voice communication device except in the case of an emergency and only when the vehicle is parked in a safe location.

Authority G.S. 110-91; 110-91(13).

### **SECTION .2300 - FORMS**

#### **10A NCAC 09 .2318 RETENTION OF FORMS AND REPORTS BY A CHILD CARE OPERATOR**

Each child care center operator must retain records as follows:

- (1) All children's records as required in this Chapter, except the Medication Permission Slip as referenced in Rule .0803(13) of this Chapter, shall be maintained on file for at least one year from the date the child is no longer enrolled in the center.
- (2) All personnel records as required in this Chapter shall be maintained on file at least one year from the date the employee is no longer employed.
- (3) Current program records shall be maintained on file for as long as the license remains valid. Prior versions shall be maintained based on the time frame in the following charts:

- (a) A minimum of 30 days from the revision or replacement date:

Record	Rule
Activity Plan	<del>.0508 (a)</del> <u>.0508(d)</u>
Allergy Postings	<u>.0901(f)</u>
Feeding Schedule	<del>.0902</del> <u>.0902(a)</u>
Menu	<u>.0901(b)</u>
SIDS Sleep Chart/Visual Check	<u>.0606(a)(7)</u>

- (b) A minimum of one year from the revision or replacement date:

Record	Rule
Attendance	<u>.0302(d)(3)</u>
Daily Schedule	<u>.0508(a)</u>
Emergency Medical Care Plan	<u>.0302(c)(3) and .0802(a)</u>
<u>Lockdown or Shelter-in-Place Drill Log</u>	<u>.0302(d)(8)</u>
<u>Emergency Preparedness and Response Plan</u>	<u>.0607(b);</u>
Field Trip/Transportation Permission	<u>.2507(a) and .0512(b)(3)</u>
Fire Drill Log	<del>.0302(d)(4)</del> <u>.0302(d)(5)</u>
<u>Fire Evacuation plan Procedures for non-mobile children in Centers not meeting institutional building code</u>	<del>.0604(o)</del> <u>.0604(p)</u>
Incident Log	<u>.0802(e)</u>
<del>Playground Inspection</del>	<del>.0604(q)</del>
Playground Inspection	<del>.0604(q)</del> <u>.0605(n)</u>
Safe Arrival and Departure Procedures	<u>.1003(b)</u>

- (4) All building, fire, sanitation and pool inspections as referenced in G.S. 110-91, and Rules .0302 and .1403 of this Chapter shall remain on file at the center for as long as the license remains valid.
- (5) Records may be maintained in a paper format or electronically, except that records that require a signature of a staff person or parent shall be maintained in a paper format.
- (6) All records required in this Chapter shall be available for review by a representative of the Division.

Authority G.S. 110-85; 110-91(9); 143B-168.3.

## SECTION .2400 - CHILD CARE FOR MILDLY ILL CHILDREN

### 10A NCAC 09 .2404 INCLUSION/EXCLUSION REQUIREMENTS

- (a) Centers may enroll mildly ill children over three months of age who meet the following inclusion criteria:

- (1) Centers that enroll children with Level One symptoms may admit children as follows:
- (A) children who meet the guidelines for attendance in 10A NCAC 09 .0804, except that they are unable to participate fully in routine group activities and are in need of increased rest time or less vigorous activities; or
- (B) children with fever controlled with medication of 102° or less orally, or 101° or less axillary;
- (2) Centers that enroll children with Level Two symptoms may admit children with the following:
- (A) ~~Inability~~ inability to participate in much group activity while requiring extra sleep, clear liquids, light meals and passive activities such as stories, videos or music as determined by a health care professional; or
- (B) ~~Fever~~ fever controlled with medication of 103° maximum orally, or 102° maximum axillary, ~~or 104° maximum rectally~~, with a health care professional's written screening; or
- (C) ~~Vomiting~~ vomiting fewer than three times in any eight hour period, without signs of dehydration; or
- (D) ~~Diarrhea~~ diarrhea without signs of dehydration and without blood or mucus in the stool, fewer than five times in any eight hour period; or

- (E) ~~With~~ with written approval from a child's physician and preadmission screening by an on-site health care professional prior to the current day's attendance unless excluded by Subparagraphs (b)(1), (2), (3), (4), (6), or (7) of this Rule.
- (b) Any child exhibiting the following symptoms shall be excluded from any care:
  - (1) ~~Temperature~~ temperature unresponsive to control measures; or
  - (2) ~~Undiagnosed~~ undiagnosed or unidentified rash; or
  - (3) ~~Respiratory~~ respiratory distress as evidenced by an increased respiratory rate and unresponsiveness to treatment, flaring nostrils, labored breathing or intercostal retractions; or
  - (4) ~~Major~~ major change in condition requiring further care or evaluation; or
  - (5) ~~Contagious~~ contagious diseases required to be reported to the health department, except as provided in Part (a)(2)(E) of this Rule; ~~or~~
  - (6) ~~Other~~ other conditions as determined by a health care professional or onsite administrator; or
  - (7) ~~Sluggish~~ sluggish mental status.

(c) Children less than three months of age shall not be in care.

~~(d)(c)~~ Once admitted, children shall be assessed and evaluated at least every four hours or more frequently if warranted based on medication administration or medical treatment to determine if symptoms continue to meet inclusion criteria.

Authority G.S. 110-88(11); 143B-168.3.

## SECTION .2800 – VOLUNTARY RATED LICENSES

### 10A NCAC 09 .2829 QUALITY POINT OPTIONS

Operators may earn one additional quality point as follows:

- (1) Education options:
  - (a) Completing additional education coursework as follows:
    - (i) An Infant and Toddler Certificate, by 75 percent of infant and toddler teachers,
    - (ii) An A.A.S. or higher in early childhood education or child development by 75 percent of teachers,
    - (iii) A BA or BS or higher in early childhood education or child development by 75 percent of lead teachers,
    - (iv) An A.A.S. or higher in early childhood education or child development by all lead teachers,
    - (v) A North Carolina School Age Care Credential or have completed six semester hours in school-age coursework by 75 percent of group leaders, or
    - (vi) An Infant and Toddler Certificate or has a BA or BS or higher in early childhood education or child development by a family child care home provider;
  - (b) Completing 20 additional annual in-service training hours for full-time lead teachers and teachers, and staff working part-time completing additional hours based on the chart in Rule .0707(c) of this Chapter;
  - (c) Completing 20 additional annual in-service training hours for family child care home providers;
  - (d) 75 percent of lead teachers and teachers having at least 10 years verifiable early childhood work experience;
  - (e) All lead teachers and teachers having at least five years verifiable early childhood work experience employed by no more than two different employers;
  - (f) Having a combined turnover rate of 20 percent or less for the administrator, program coordinator, lead teachers, teachers and group leader positions over the last 12 months if the program has earned at least four points in education;
  - (g) In a stand alone school age program, 75 percent of group leaders having at least five years verifiable school-age work experience employed in no more than two different school-age settings; or
- (2) Programmatic options:
  - (a) Using age or developmentally appropriate curriculum that addresses five domains of development. This programmatic option is not available to facilities that are required to use an approved curriculum in accordance with Rule .2802(d) of this Section;
  - (b) Having group sizes decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section;
  - (c) Having staff/child ratios decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section;
  - (d) Meeting at least two of the following three programs standards:
    - (i) Having enhanced policies which include the following topics: ~~emergency evacuation plan~~, field trip policy, staff development plan, medication administration, enhanced discipline policy, and health rules for attendance;
    - (ii) Having a staff benefits package that offers at least four of the following six benefits: paid leave for professional development, paid planning time, vacation, sick time, retirement or health insurance; or

- (iii) Having evidence of an infrastructure of parent involvement that includes at least two of the following: parent newsletters offered at least quarterly, parent advisory board, periodic conferences for all children, or parent information meetings offered at least quarterly;
- (e) Completing a 30 hour or longer business training course by a family child care home provider;
- (f) Completing a business training course and a wage and hour training by the center administrator that is at least 30 hours total;
- (g) Restricting enrollment to four preschool children in a family child care home; or
- (h) Reducing infant capacity by at least one child from the seven point level for a family child care home as described in Rule ~~.2821(g)(3)~~ .2828(g)(3) of this Section.

*Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b).*

**Impact Analysis – Proposed Rule Change  
January 27, 2014**

<b>Agency:</b>	<b>DHHS/Division of Child Development &amp; Early Education</b>
<b>Contact:</b>	<b>Dedra Alston (919) 890-7060 or Laura Hewitt (919)890-7154</b>
<b>Rule Title:</b>	<b>Emergency Preparedness and Response, Temperature taking &amp; Cell Phone</b>
<b>State Impact:</b>	<b>Yes</b>
<b>Local Impact:</b>	<b>No</b>
<b>Substantial Economic Impact:</b>	<b>No</b>
<b>Small Business Impact:</b>	<b>Yes</b>
<b>Private:</b>	<b>Yes</b>

The NC Child Care Commission and the Division of Child Development and Early Education propose to amend the Child Care Requirements related to Emergency Preparedness and Response (EPR) to promote the safety of children while in child care. These rules are written in response to findings reported in the Save the Children Study 2008<sup>1</sup> that many states do not have regulations that would adequately protect children in emergencies. Save the Children and Child Care Aware, published in *Protecting Children in Child Care During Emergencies 2010*<sup>2</sup> EPR standard recommendations for states. Standards selected for adoption in North Carolina include: requiring one staff person to complete the EPR training, requiring facilities to have an EPR plan, training all staff on the EPR plans and conducting additional EPR drills.

Other amendments included in this package are regarding temperature taking and prohibiting talking on a cell phone while driving. Temperatures should be taken under the arm or orally instead of rectally in child care programs due to specific health training needed as well as the potential for abuse. Other amendments will prohibit providers from talking on the cell phone while driving.

The North Carolina Child Care Commission proposes to amend the following rules in Title 10A NCAC 09:

**1) Prohibit Cell Phone Use While Driving**

- .1003 – Safe Procedures
- .1723 – Transportation Requirements

*Statutory Authority for rule:* G.S. 110-85; 110-91; 110-91(13); 143B-168.3

**2) Temperature Taking**

- .0804 – Infectious and Contagious Diseases
- .2404 – Inclusion/Exclusion Requirements

*Statutory Authority for rule:* G.S. 110-85; 110-88(11); 110-91; 110-91(1), (2); 110-91(13); 143B-168.3

---

<sup>1</sup> Report available at:

[http://www.naccrra.org/sites/default/files/publications/naccrra\\_publications/2012/protectingchildreninchildcareemergencies.pdf](http://www.naccrra.org/sites/default/files/publications/naccrra_publications/2012/protectingchildreninchildcareemergencies.pdf)

<sup>2</sup> *PROTECTING CHILDREN DURING U.S. EMERGENCIES: How safe are our schools and day-care centers when disaster strikes?*

Report is available at: <http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/Disaster-Preps-Issue-Brief-Final-1.pdf>

## Analysis for Cell Phone Use and Temperature Taking Rule Changes

### *Description*

The NC Child Care Commission is proposing to amend rules that will prohibit taking temperatures of mildly ill children rectally and by prohibiting talking on the cell phone while driving children enrolled in child care. These amendments will help to ensure the safety of children while in child care.

### *Fiscal Impact*

There is no estimated impact to state or local government entities from the changes proposed to the temperature taking and cell phone use rules. These changes would not require any additional staff or staff cost to the Division of Child Development or Early Education, or to local agencies. Also, these two rule changes would create little to no impact on the providers because they do not require anything to be purchased. The rules do provide additional legal protection for providers since they would potentially reduce the risk for abuse and traffic accidents involving children in the providers' care.

The proposed changes are meant to result in positive benefits for the children in the providers' care related to lowering the risk for abuse and children being driven in vehicles with a driver not distracted by talking on a cell phone. A driver with their full attention on driving and keeping children safe enables them to drive defensively and reduces the likelihood of a serious accident. The National Safety Council estimated in 2010 that at least 28% of all car accidents nationwide involve drivers using a cell phone or texting.<sup>3</sup> The Division does not have access to any data on the number of accidents involving providers transporting children in their care that were a result of cell phone use, so an estimation of any potential benefits is difficult.

### **3) Emergency Preparedness and Response Requirements**

- .0102 – Definitions
- .0302 – Application For A License For A Child Care Center
- .0604 – General Safety Requirements
- .0607 – Emergency Preparedness and Response
- .0707 – In-Service Training Requirements
- .1701 – General Provisions Related to Licensure of Homes
- .1705 – Health and Training Requirements for Family Child Care Home Operators
- .1720 – Safety, Medication, and Sanitation Requirements
- .1721 – Requirements for Records
- .2318 – Retention of Forms and Reports By A Child Care Operator
- .2829 – Quality Points Options

**Statutory Authority for rule:** G.S. 110-85; 110-86(3); 110-88; 110-88(1); 110-88(2); 110-88(5); 110-88(7); 110-90(4); 110-91; 110-91(1), (3), (6), (9), (11); 110-92; 110-93; 110-99; 110-105; 143B-168.3; S.L. 2011-145, s.10.7(b)

### **Analysis for EPR Requirements**

#### *Description*

The NC Child Care Commission is proposing to amend and adopt rules on Emergency Preparedness and Response in child care programs in response to the finding that North Carolina does not have regulations that would adequately protect children in emergencies.

#### *Purpose and Impact*

The purpose of these rules is to strengthen the current requirements related to Emergency Preparedness and Response in child care.

- .0102 This rule defines key terms found in the EPR standards including “lockdown” and “shelter-in- place.” Understanding these terms will assist providers in knowing which EPR drill to use with what circumstance. Since the rule serves to clarify concepts, there is no fiscal impact.
- .0302 Changes to this rule include adding the word “medical” to “emergency medical care plan,” so that providers will be able to differentiate between the types of emergency plans found in rule. It also requires providers to have on file records of emergency preparedness and response drills. The rule specifies what should be included in the record. Providers already are required to keep fire drill records with content paralleling the content in this rule. The requirement for additional records will have little to no financial impact. There would be some opportunity costs related to maintaining the records.

---

<sup>3</sup> National Safety Council website. “National Safety Council Estimates that At Least 1.6 Million Crashes Each Year Involve Drivers Using Cell Phones and Texting,” 1/12/2010.

<http://www.nsc.org/Pages/NSCEstimates16millioncrashescausedbydriversusingcellphonesandtexting.aspx>

- .0604 The current rule requires programs to have a crib available to transport non-mobile children in case of fire or other emergencies. Later in the rule the language specifies that the evacuation cribs must be used during the monthly fire drills in the manner described in the fire evacuation plan for non-mobile children. The language was changed to require programs to also use the evacuation cribs when the additional EPR drills are conducted. Using the evacuation cribs in these additional circumstances will not have fiscal impact. Also added to this rule is a clarification related to having a fire drill. The requirement to complete fire drills is implied in rule by requiring records of fire drills, but is not explicitly stated in rule. Since providers are already conducting fire drills, there is no fiscal impact. This rule also now requires EPR drills to be conducted in addition to fire drills. The rule is based on a recommendation from *Protecting Children in Child Care During Emergencies 2010*. While child care facilities may spend some time planning EPR drills, there is no financial impact from conducting additional drills.
- .0607 This is a new section of the rules detailing new EPR requirements as recommended in *Protecting Children in Child Care During Emergencies 2010: Recommended State and National Regulatory and Accreditation Standards for Family Child Care Homes and Child Care Centers and Supporting Rationale*.
- (a) These rules would ensure a current administrator or a designated staff person complete the emergency preparedness and response training as approved by the Division within two years of the effective date of the rule and new administrators or designated staff within six months of their employment date. These trainings will be offered by Child Care Health Consultants, who are specialists residing in local health departments, Child Care Resource and Referrals, local Smart Starts and home-based offices. The Division of Child Development and Early Education currently contracts with UNC Gillings School of Global Public Health, Department of Maternal and Child Health in Chapel Hill, to conduct Train the Trainer modules on EPR in Child Care for Child Care Health Consultants across the state, so that they can, in turn, train providers. The current contract allows for two cohorts to be trained on EPR. This training will need to be revised to meet the proposed rule requirements and allow four additional cohorts of consultants to be trained, as well as, to include new guidance on course content that is unrelated to the rule change. The cost of the revision will be built into the current contract costs. The Division estimates that \$800 will be needed per cohort (for a total of 6 cohorts, 2 existing and 4 new) for materials needed to conduct the revised Emergency Preparedness and Response module in the Child Care Train-the-Trainer Course; therefore, the revisions would cost about \$4,800 total. Another \$200 would be needed for educational materials to cover the cost of reference materials for the revision and about \$1,500 (or \$375/location) is estimated for travel to the 4 new locations in the eastern and western regions of the state. There are currently two cohorts that are already taught in Raleigh, so there is no additional travel related fiscal impact for them. So, the state cost in the first year of the rules being effective is estimated at about **\$6,500**. Likely three to four cohorts of the train-the-trainer courses would be provided again in FY 2014-15 in order to ensure all who need the training are trained, and the estimated cost for that year would be about **\$4,000** (\$800\*4 cohorts+\$750 travel). Afterwards, the number of trainings would likely decrease to two per year, for an estimated cost of about **\$2,000** (\$800\*2 cohorts + \$375 travel). Every five years the Train the Trainer course will need to be revised (\$200 per revision + opportunity cost). Note that the contract with the Gillings School was substantially decreased this year; therefore the reduction in other outcomes and outputs will allow the cost of the additional EPR cohorts to not have a net fiscal impact over previous years. Because the contract changes are not related to this rule, the impact from the additional cohort is included in the impact summary table (see Table 1 below).

The Local agencies would not sustain fiscal impact since the contract is paid for by the state and usually the Consultants at the local health departments offer the training as part of their jobs. Note, however, there would be an opportunity cost associated with these consultants getting trained and providing training sessions to providers on the EPR topic.

The charge for the training child care providers may vary by agency. Some local agencies charge up to \$15. As a result, approximately 4,728 current centers will need the training at a maximum of \$15 per person trained, or an estimated total expenditure of  $4,728 * \$15 \approx$  **\$70,900** for centers for the training in the next couple of years. Note, this estimate does not include any travel costs the centers may incur to be able to attend the training since those costs can largely vary. Since administrators or designated staff must annually review and update the EPR plan, as well as, train all child care staff on the plan, then when the administrator or designated staff leaves the program, new administrators or designated staff would be expected to complete the training. Turnover rates are not maintained in data files at the Division; therefore, no estimate can be provided on the annual cost of new administrators participating in the EPR training. Also, since it is unknown how many existing center would choose to comply with this requirement within the first year of the rule becoming effective, this analysis assumes that half the existing centers would opt for training in FY 2014-15 and half the following year.

The proposed changes also require someone within a newly opened center to obtain the EPR training within six months. Approximately 234 Centers are opened each year (based on the average number of centers opened annually

between 2010 and 2012). The annual estimated cost of the training for new administrators or designated staff would be approximately **\$3,500** ( $234 * \$15$ ).

Substitutes may need to be secured for the administrator or designated staff person to participate in the 8 hour training. At a rate of \$10 an hour, each center would incur  $(\$10) * 8 = \$80$  in expenditure for substitutes, so at most the approximate substitute expenditure would be **\$378,200** ( $\$80 * 4,728$ ) over a two-year period for all centers. An additional expenditure of approximately **\$18,700** ( $\$80 * 234$ ) for substitutes would be annually incurred to train staff of newly opened programs. Programs may not need to pay substitutes if the training is offered in the evenings or if they have additional staff who assume these duties while the trainee is away. However, even if substitutes are not required, there would be an equal opportunity cost of the administrator's or designated staff person's time.

(b-c) This rule ensures all significant center staff are trained on the program's EPR Plan during orientation and annually, and that verification of the training be on file. Since programs already provide staff training opportunities, this rule has little to no fiscal impact.

(d) This rule ensures an emergency preparedness plan is created by the administrator or designated staff and that the plan is reviewed annually to ensure all information is current. The responsibility to create the plan would be considered an expectation of a director or designated staff person; therefore the rule would not have a fiscal impact, but only an opportunity cost associated with the time the administrator or designated staff would spend developing the plan and reviewing it annually.

(e)(1-9) These rules outline what should be included in the Emergency Preparedness and Response Plan.

The rule requires the program to describe how they will meet the nutritional and health needs of children when evacuated. If programs follow the recommendations of the EPR course, they will have water, non-perishable foods and other items available for evacuations. The cost of these items will vary widely with programs, but may go as high as \$480 when costs for diapers, wipes, food and water, and miscellaneous items are included. Most existing programs, however, will already have the items they would need for an evacuation and will incur minimal additional cost, if any. While, new programs would be required already by other rules to have those items available for emergencies. The other requirements for the EPR plan listed in the rule would be completed without cost, e.g. written procedures accounting for all children and specific considerations for non- mobile children and children with special needs.

.0707 This rule will ensure the Emergency Preparedness and Response Plan is one of the topics reviewed in orientation training for new employees. Since orientation is already a requirement for programs, the rule would not have a fiscal impact.

.1701 This rule ensures that the Emergency Preparedness and Response Plan is reviewed by additional caregivers prior to anyone assuming responsibility for the children in a Family Child Care Home. Since, by rule, the Child Care Requirements and Law must be reviewed with additional caregivers prior to assuming responsibility with children, adding another procedure to review would have little to no impact.

.1705(6) This rule ensures family child care home operators will complete the EPR training approved by the Division within six months of receiving a license and to have verification of completing the training on file. It also ensures that current operators complete the training within two years of the effective date of the rule. Approximately 2,500 current operators will require the training at a maximum of \$15 for each person. The charge for the training may vary by agency. Typically, if agencies do charge, it is a minimal amount to cover the cost of meals. If they are required to pay for this training, then the cost for this expenditure will be approximately **\$37,500** ( $2,500 * \$15$ ) over a period of two years. As with Centers, the program may have to incur the cost of a substitute. At \$10 an hour, the expenditure for substitutes across the state over a period of 2 years would be about **\$200,000** ( $\$10 * 8 * 2,500$ ).

Approximately 172 new FCCH operators will participate in the training each year following the effective date of the rule (based on the average number of temporary licenses given annually between 2010 and 2012). Therefore, approximately **\$2,600** ( $172 * \$15$ ) would be spent for the training annually and approximately **\$13,800** ( $172 * 8 * \$10$ ) would be expended for substitutes. The training may be offered in the evenings, which may lessen the fiscal impact.

.1705(7) This rule ensures an emergency preparedness plan is created by the operator and that the plan is reviewed annually to ensure all information is current. The responsibility to create the plan would be considered an expectation of an operator; therefore the rule would have little to no fiscal impact. It also outlines what should be included in the EPR Plans. The rule requires the program to describe how they will meet the nutritional and health needs of children when evacuated. Some cost will be incurred if the program actually has to evacuate. If programs follow the recommendations of the EPR course, they will have water, non-perishable foods and other supplies available for evacuations, which could total to as much as \$170. However, programs will incur minimal costs because most of these supplies are already onsite in the program. The other items listed in the rule would be completed without cost

e.g. written procedures accounting for all children and specific considerations for non- mobile children and children with special needs. Having the EPR Plan available for review and reviewing the Plan annually with additional caregivers, two other components of the rule, would not have a fiscal impact.

- .1720 This rule ensures a FCCH operator will conduct a monthly fire drill and an additional EPR drill every three months. These additional drills would not have a fiscal impact, although there may be small opportunity cost to operator from planning the drills.
- .1721 This rule ensures a FCCH operator will keep a record of the EPR Plan on file and a record of all the EPR drills on file for a minimum of a year from a record revision/replacement date. Record keeping rules will not have little to no fiscal impact.
- .2318 This rule ensures a Center will keep a record of the EPR Plan and EPR drills on file for a minimum of a year from a record revision/replacement date. Record keeping rules will have little to no impact.
- .2829 This rule repeals the requirement to include an emergency evacuation plan as an option for a quality point in the Star-Rated License. Since as a result of the proposed rules an EPR plan would be required and include an evacuation plan, then programs would already have a plan on file. The need for the Quality Point as an incentive no longer exists. Programs can still have enhanced policies to secure a quality point, they just no longer will include the EPR plan as part of the enhanced policy. It would be considered a minimum standard. The rule change will not have a fiscal impact.

***EPR Impact Summary***

Emergency Preparedness and Response rules would have an economic impact on facilities and state government. Facilities would have to bear the cost of the training and may have to pay substitute administrators/teachers when the staff participates in the training. The total cost per facility would be \$95 (\$15 for the training of one staff, and \$80 to hire a substitute for that staff for 8 hours), but this estimate may vary depending on whether the facility actually needs a substitute or whether they have to expend additional funds to ensure they have all items necessary in case of an emergency (e.g. food, water, and other supplies). The state government would incur costs related to changing the current contract they have with Child Care Health Consultants to provide training for local health department staff who would in turn train the providers. Table 1 below provides an overview of the costs that would result from these rule changes. The 5-year net present value of the estimate costs is about \$0.8 million (at a 7% discount rate).

**Table 1. Estimated Impact of Emergency Preparedness and Response Requirements**

	<b>FY14-15</b>	<b>FY15-16</b>	<b>FY16-17</b>	<b>FY17-18</b>	<b>FY18-19</b>
<b>Costs</b>					
<b><i>State Government</i></b>					
<i>Training Contract</i>	\$6,500	\$4,000	\$2,000	\$2,000	\$2,200
<i>Opportunity Cost of Revision</i>	Unquantified				Unquantified
<b><i>Local Governments</i></b>					
<i>Opportunity Cost of Training</i>	Unquantified – probably offset by the training fees paid by providers				
<b><i>Providers</i></b>					
<b><i>Training Cost</i></b>					
Existing Centers <sup>1</sup>	\$35,500	\$35,500			
Existing FCCH <sup>1</sup>	\$18,800	\$18,800			
New Centers	\$3,500	\$3,500	\$3,500	\$3,500	\$3,500
New FCCH	\$2,600	\$2,600	\$2,600	\$2,600	\$2,600
<b><i>Substitute Cost</i></b>					
Existing Centers <sup>1</sup>	\$189,000	\$189,000			
Existing FCCH <sup>1</sup>	\$100,000	\$100,000			
New Centers	\$18,700	\$18,700	\$18,700	\$18,700	\$18,700
New FCCH	\$13,800	\$13,800	\$13,800	\$13,800	\$13,800

TOTAL PROVIDER COST	\$381,900	\$381,900	\$38,600	\$38,600	\$38,600
<b>Total Costs</b>	<b>\$388,400</b>	<b>\$ 385,900</b>	<b>\$40,600</b>	<b>\$40,600</b>	<b>\$40,800</b>
<b>5-Year NPV of Cost</b>	\$793,256				
<b>Benefits</b>					
<i>Local Gov't - Training Fees</i>	\$60,400	\$60,400	\$6,100	\$6,100	\$6,100
<i>Providers</i>	Unquantified	Unquantified	Unquantified	Unquantified	Unquantified
<i>Public</i>	Unquantified	Unquantified	Unquantified	Unquantified	Unquantified
<b>5-year NPV of Benefits</b>	\$123,187				

<sup>1</sup> Since providers would be allowed two years to complete the training, the estimated impact was split evenly between the first two years.

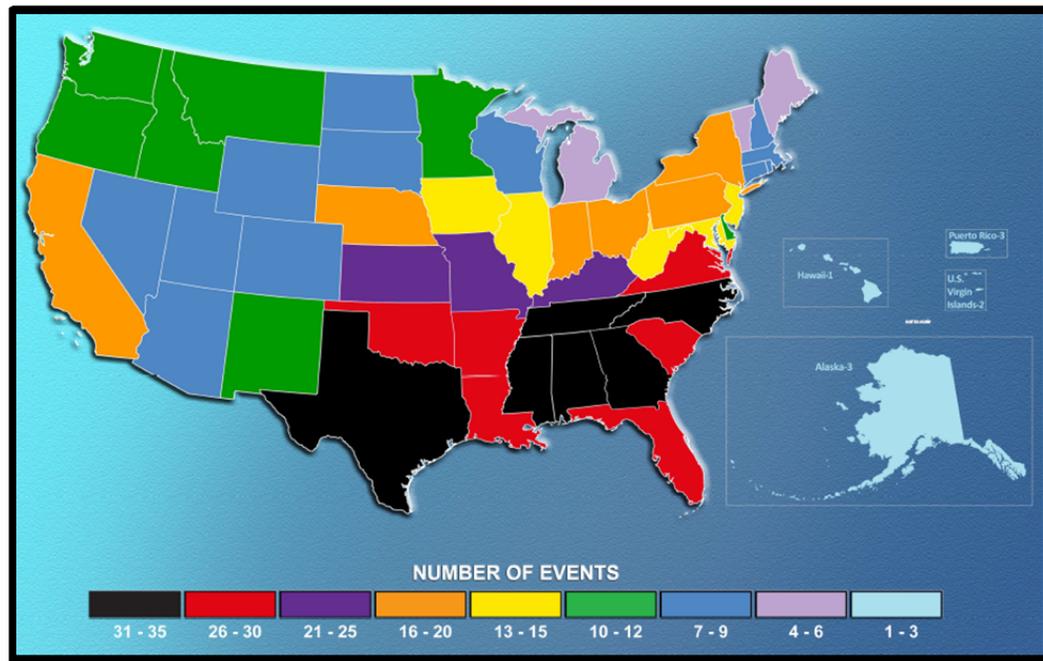
The benefits of having an emergency preparedness plan are significant when disaster strikes. It reduces panic in emergency situations and increases child care operator and staff confidence that they know what to do to keep children safe. If child care operators and staff do not have appropriate training in dealing with emergencies, there is a great likelihood that they will panic and convey their panic to children which will make it more difficult for everyone to stay safe and could result in serious injuries and/or fatalities among staff and children.

It is difficult to quantify what the potential benefits may be given that there is no data to predict the number of instances where the EPR requirements may prevent someone from being hurt. Historical data on effect of having a EPR plan is also too sparse to be used in forecasting benefits. While the probability is not very high of a disaster leading to a fatality in a childcare setting, the statistical value of a life saved, as used by federal agencies, is significant and it ranges from \$6-9 million.

In a 2004 fire at the Butner Child Care Center, which did have an EPR plan, no one was injured. Approximately 27 children were at the center when the fire started and they were evacuated safely to the church on the next street. Recent events in other states increase the awareness of the benefits of strengthening the regulations in North Carolina. New York, for example, had 11,500 child care programs impacted by Super Storm Sandy October 2012. They have also had to deal with Hurricane Irene and Tropical Storm Lee, a plane crashing in a residential neighborhood, a sniper was on the loose in a rural county, as well as the presence of 7 nuclear power plants. New York is now requiring Emergency Preparedness and Response trainings, more detailed Emergency Preparedness and Response Plans, and enough non-perishable food and other supplies needed for an overnight stay.

Though, there are no specific cases that the Division has investigated related to emergency preparedness issues to be able to make any forecast, given the number of costly climate and weather disasters in the last 30 years in NC, as shown in the Figure 1 below, and events in other states involving shootings in schools, it is important to ensure that facilities are adequately prepared to deal with emergencies in a manner that would reduce the risk to children in their care.

**Figure 1. Number per State of Billion-Dollar Climate and Weather Related Disasters between 1980-2010**



Source: National Oceanic and Atmospheric Administration: National Climatic Data Center. Accessed June 10, 2013.

[http://www1.ncdc.noaa.gov/pub/data/csd/billions/Billion%20Dollar%202011\\_Oct\\_double%20column-update.pdf](http://www1.ncdc.noaa.gov/pub/data/csd/billions/Billion%20Dollar%202011_Oct_double%20column-update.pdf).

### Uncertainties

A number of assumptions made in this analysis in order to be able to estimate the impact of the proposed EPR requirement:

- The analysis reflects an administrator, designated staff or an operator requiring a substitute. If the program has enough staff coverage, hiring a substitute for the staff member getting trained may not be necessary. If only 50% of these staff require a substitute, then the net present value would decrease to \$0.47.
- The revision of the training in five years could potentially increase the requested state contract amount by \$5,000 for staff time and the costs of convening an advisory group to have input into revisions. The contractor is currently offering to revise the materials, in-kind.
- The Division is working with the NC Division of Emergency Management to include child care program EPR plans on a computer application that will be able to be accessed by local emergency management teams. If the Division is added to this application and these rules are passed, all programs will hear about this application in the new EPR course and be encouraged to use it. Emergency Management has already developed a template which is utilized by Licensed Care Facilities and Nursing Homes. They are currently working towards making the procedure web-based. Emergency Management has committed to working with DCDEE and will be tailoring a template specific to the needs of Child Care Facilities. If this collaboration comes to fruition, centers and FCCHs would have an additional resource to help them develop an EPR plan.

### Alternatives

A 2013 report by Save the Children titled, “Unaccounted For: A National Report Card on Protecting Children in Disasters,” states 28 states and District of Columbia, including North Carolina, fail to meet minimum standards to protect children recommended by the National Commission on Children and Disasters. This Commission was presidentially appointed after Hurricane Katrina to research state regulations to determine how well-prepared child care facilities and K-12 schools are to respond to the needs of children in the event of disasters and emergencies. The number of states that meet all four standards has increased from four in 2008 to 22 in 2013, not including North Carolina. The rules the NC Child Care Commission proposes address all four standards. By instituting these standards as requirements, programs will be required to prepare for disasters and emergencies in order to remain open. If the rules are not passed, then many programs will not take action, based on the experience in both other states and NC. (Note EPR training and plans are currently optional in NC. Evacuation plans can be used by providers to potentially increase their rating.)

The most comprehensive and recommended action to ensure children's safety in the event of a disaster or emergency has already been revised from the original proposal so that the burden on the programs would not be substantive. The rules no longer require two staff persons to take the EPR training and no longer require programs to give the location of a Ready to Go Kit.

The following actions were also considered in order of effectiveness for preparing programs for emergencies or disasters, however, the Commission feels they would not provide an adequate level of protection:

- One alternative is to remove the requirement for staff to take the EPR course. They would still be required to complete the additional drills and to write an EPR plan. It would be assumed they could complete an EPR plan without training. If the EPR training requirements would be removed from the proposal, the fiscal impact to providers would then be minimal as it would be reduced to opportunity cost of drafting the plan and completing the drills.
- Another alternative would be to only require providers who have never taken the course to take the course. It is estimated that staff at 25% of centers and 15 % of FCCHs have taken an EPR course. The estimated five-year net present value of the proposal if only 75% of center staff and 85% of FCCH operators to take the course is \$0.77, as opposed to \$0.79 for the proposed changes. The disadvantage to this alternative is the new training will include more current information about creating EPR plans, the new EPR rules and it will have instructions on how to upload the EPR plan into the Division of Emergency Management's emergency preparedness web-based application that can be accessed by local emergency management staff and child care licensing consultants.
- Lastly, an alternative would be to not create a rule, but rather for Licensing Consultants to strongly recommend providers take the revised EPR course and include the recommendation in their Visit Summaries. The Division could recommend the NC Child Care Health and Safety Resource Center create brochures advertising the revised training and the Division's strong recommendation to take the training. This would only involve the cost of the revised training, Consultant and editor opportunity costs, and costs of creating and printing the brochure.