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CHAPTER 3

ADMINISTRATIVE RULES FOR CERTIFICATION

OF CHILD CARE FACILITIES

CERTIFICATION OF CHILD CARING FACILITIES

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CHAPTER 3
ADMINISTRATIVE RULES FOR CERTIFICATION
OF CHILD CARE FACILITIES
CERTIFICATION OF CHILD CARING FACILITIES

Section 1. **Licensing Procedures.**

(a) All providers and/or directors of child care facilities covered by these rules shall request regular licensing in accordance with these rules.

(b) Any individual who provides care for more than two children is required to be licensed unless exempt under one of the following areas:

- (i) A legal parent's or legal relative's care of a child;
- (ii) Occasional care of a neighbor's or friend's child if the person providing the care does not regularly engage in this activity;
- (iii) Parents exchanging care on a cooperative basis;
- (iv) Child care provided by a person employed to come to the home of the child's parent or guardian;
- (v) Child care facilities providing care for no more than two (2) minors;
- (vi) Child care facilities supervised by the state, any local government, school district or agency or political subdivision thereof; or
- (vii) Child care facilities providing care to the children of only one (1) immediate family unit.

(c) With the exception of a legal parent or grandparent in Chapter 3, Section 1(b) (i), these exemptions cannot be combined. If the exemptions in this chapter are combined, the total number of unrelated children cannot exceed two (2) children unless all of the unrelated children are from one (1) immediate family unit and in the case of grandparents, the total number of children shall never exceed six (6).

(d) Only one (1) individual who is exempt from licensure can provide care in a location or residence.

(e) Facilities that are legally exempt may request voluntary licensing.

(f) Interpretation of these rules is the responsibility of the Department. No other person, agency or organization shall make public interpretation of the licensing rules.

Section 2. **Initial Application and Reapplication.**

(a) Information on the child care licensing process will be made available by the Department.

(b) Application is required for:

(i) New facilities; and

(ii) Reapplication when a facility previously held a license and that license is currently not valid.

(c) The Department of Family Services is not required to take any action on an application until the application process has been completed. All applications are to receive action from the Department of Family Services within thirty (30) days from the date they are completed. New applications are considered as completed and filed when the licenser has received:

(i) A signed and dated application form filled out in its entirety;

(ii) TB test results, for the provider and/or director;

(iii) Local zoning approval where required;

(iv) Documentation from a physician, physician's assistant, or nurse practitioner that the applicant has no diagnosed medical or emotional conditions that would impair their ability to provide child care;

(v) Proof of required education, training or experience;

(vi) A child abuse/neglect Central Registry check and criminal background prescreen on all staff and auxiliary staff is required to be completed and must not reveal any disqualifying information.

(vii) Proof of completion of six (6) hours of orientation training in accordance with Chapter 6, Section 7 (a); and

(viii) Non-refundable application fee of fifty dollars (\$50.00).

(d) Action taken on an application may include issuance of a full license, issuance of a provisional license or denial of the application.

Section 3. **Change Request Application**

(a) Written notification to the licenser from the provider/director is required as soon as the provider and/or director has knowledge of the following changes:

- (i) The name of the facility;
- (ii) The name of the provider and/or director;
- (iii) Change in director;
- (iv) Physical location of the facility;
- (v) Mailing address of the facility;
- (vi) Telephone number of the facility;
- (vii) Facility classification;
- (viii) Structural modifications;
- (ix) Facility closure;
- (x) Capacity; or
- (xi) Licensing period.

(b) Verbal reports from the provider and/or director of changes in the facility telephone number, mailing address or facility closure may be accepted if the licenser is unable to get written notification from the provider and/or director.

(c) Change requests are considered as complete when the licenser has received the completed change request form and all required documentation.

(d) The Department of Family Services is not required to take any action on a change request until the change request process has been completed.

(e) Changes will be effective when all required documentation has been received or the effective date of the change, whichever is later.

Section 4. **Inspection.**

(a) As soon as possible and not to exceed thirty (30) days after an application for licensure has been completed, the licenser will conduct a scheduled initial inspection of the child care facility.

(b) A minimum of one (1) annual licensing inspection is required of all facilities.

(c) Additional licensing inspections, scheduled or unscheduled may be conducted during the licensing year.

(d) Inspection will include:

(i) Examination and assessment of the entire facility, equipment, and records for compliance with these rules;

(ii) Measurement of available indoor and outdoor play space initially and with any change;

(iii) Discussion of any licensing violations discovered as the result of inspection

(iv) Establishment of completion deadlines for compliance with any violations discovered as the result of inspection; and

(v) Technical assistance.

(e) Copies of all completed inspection forms shall be kept on site and made available by the provider and/or director to parents, other inspectors or anyone else requesting to see the inspection results.

(f) All child care facilities shall receive annual fire and health approval in addition to the Department of Family Services inspection. Local ordinances may require additional inspections:

(i) Fire inspection authorities are responsible for enforcement of fire codes; and

(ii) Health/sanitation inspectors are responsible for the enforcement of health/sanitation regulations.

(g) Violations and/or noncompliance with fire, health/sanitation, zoning or immunization regulations may affect licensure.

Section 5. License Issuance.

(a) Upon application for licensure, or for the purpose of renewal of an existing license, or change to the existing license, the Department shall make or cause to be made a review of program documents that demonstrate compliance with the licensing rules and one or more inspections of the facility. Based on the information on hand and/or the result of the inspections, the Department shall issue a license to the child care facility if the facility:

(i) Is in compliance with the applicable Federal, State and local laws, and rules or regulations unless a variance for an exception to a specific regulation has been requested in writing by the provider and/or director. Each request for a variance will be considered on its own merit; and

(ii) No open investigations by Child Care Licensing or Child Protective Services are pending against the provider and/or director, staff or auxiliary staff; and

(iii) No issues of non-compliance are unresolved from a previously held license.

(b) Each license is issued for the address and child care facility named on the license. It is not transferable or assignable.

(i) Two (2) or more licenses shall not be issued for the same, adjacent or shared location unless the facilities operate completely independently of one another by:

(A) Not using shared or common equipment simultaneously; and

(B) Maintaining all records and complying with all child care licensing rules independent from the adjacent facility.

(c) When a facility closes or relocates, the license will be invalid.

(d) An initial license cannot be issued if a fire inspection has not been completed and approved.

(e) If a facility's license is to be renewed, and required inspections or approval have been delayed through no fault of the provider and/or director, a full or provisional license may be issued.

(f) Full licenses may be issued for one (1) year for all facilities in compliance with these rules.

(g) A provisional license, for a period not to exceed six (6) months, may be issued for an initial or renewal license, permitting operation of a child care facility when:

(i) The facility is temporarily unable to conform to all required minimum standards due to circumstances beyond their control; and/or

(ii) Compliance with licensing rules is being monitored due to noncompliance issues.

(h) A full license shall be issued to replace a provisional license at any time full compliance is documented and/or monitoring is completed.

Section 6. Variance

(a) The facility may submit a written request to the Department for a variance to a rule when the facility is unable to meet full compliance with a standard in these rules.

(b) The written request must show:

(i) A compelling reason why the facility is unable to meet the rule requirement; and

(ii) What accommodations the facility will make to ensure that the safety and well-being of children being served will not be compromised.

(iii) Parents must be informed of the variance.

(c) All variances shall be reviewed and approved or denied by the Department and will be:

(i) Reviewed not less than annually to determine if continuation of the variance is appropriate; and

(ii) Terminated at any time the safety and well-being of children is in jeopardy.

(d) Approval of a variance request cannot be interpreted as permanently waiving compliance with these rules.

Section 7. **Licensure Fees.**

(a) At the time of the initial application or reapplication, a nonrefundable application fee of fifty dollars (\$50.00) shall be paid by all applicants. The applicant will be provided with a copy of the licensing rules with payment of this fee.

(b) A nonrefundable renewal fee of \$25.00 for all licensed facilities is due upon the expiration date of the current license or when a facility has submitted a request for a change in the licensing year:

Section 8. **Application for Renewal of a License.**

(a) Renewal of an existing license will be dependent upon submission of a request for renewal and payment of the renewal fee as described in Section 7(b) of this chapter, and continued compliance with child care licensing rules.

(b) Medical statements are not required when renewing a license but may be required whenever there has been a change in the physical or mental condition of the provider/director or when the Department is aware of a concern about the ability of the provider/director to provide safe child care.

(c) Tuberculosis (TB) tests are required in accordance with the recommendation of the State Health Authority.

Section 9. **Complaints.**

(a) Local Child Protection Services or the local law enforcement agency is to be notified when a complaint of child abuse or neglect is received by the Department involving a provider and/or director, staff or auxiliary staff. Complaints concerning child abuse or neglect will be investigated by a child protection worker and/or law enforcement.

(b) Complaints involving violations of child care licensing rules will be investigated by licensing. When appropriate, joint investigations shall be made with Child Protection Services workers, fire or health inspectors or law enforcement.

(i) Complaints shall be accepted and investigated, when determined to be a licensing issue, even when the complainant wishes to remain anonymous.

(ii) If complaints relate to nonlicensing issues, (such as, but not limited to, rates charged and hours of operation.), the complaint will be rejected or referred when appropriate.

(iii) Investigation of licensing rule complaints shall include but are not limited to:

(A) A record of the complaint as received;

(B) An unannounced visit by a representative of the Department to the facility being investigated; and

(C) A summary record of the investigation as conducted by the Department of Family Services.

(c) Prior to an investigation being conducted, the provider and/or director shall be notified in writing of the allegations made in the complaint:

(d) Upon completion of the investigation the provider and/or director shall be notified in writing of:

(i) The findings and any areas of noncompliance with regulations;

(ii) What corrections must be made and a date by which compliance will be expected. Compliance may include but is not limited to;

(A) Training hours in specific competency areas;

(B) Written statements or reports;

(C) Facility records or reports; or

(D) Other requirements necessary to demonstrate compliance or the ability to maintain compliance with these rules.

(e) If noncompliance continues or reoccurs and is confirmed, the licenser may use the noncompliance as a basis for making additional visits to the facility or recommending revocation of the license.

(f) Complaints about the operation of unlicensed child care operators will be investigated by the Department. The facility operator will be contacted and provided information related to the state statute requiring certification for child care facilities. Additional action may be taken against persons who are not legally exempt and continue to operate without a license, in accordance with W.S. § 14-4-110 and W.S. § 14-4-111.

(g) Providers and/or directors have the right to be told about information contained in the complaint or the report with the exception of information that would identify the reporter.

Section 10 **Confidentiality**

(a) Department of Family Services records concerning the licensing of facilities are open to public inspection with some exceptions as outlined in Section 10 (c).

(b) Any person who files a request as outlined below may review violation investigations dealing with non-child protection issues completed by the Department of Family Services.

(c) Anyone wishing to read or obtain information from a record not available on our website must make a written request to the Department. Parts of the record that are not available for public inspection are:

(i) Names and personal information of children, their relatives, and complainants are confidential and shall be deleted from the record upon such inspection.

(ii) References received by the Department for licensing purposes are confidential and unavailable for inspection; and

(iii) Personal information of the provider and/or director and staff, such as but not limited to social security numbers, date of birth, background check results, physician's statements; and

(iv) All reports relating to child abuse or neglect investigation or complaints are confidential and unavailable for public inspection.