

DEPARTMENT OF HEALTH AND SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

**7 AAC 57
CHILD CARE FACILITIES LICENSING.**



PUBLIC REVIEW DRAFT

August 27, 2014

COMMENT PERIOD ENDS: September 30, 2014
Please see public notice for details about how to
comment on these proposed changes.

Notes to reader:

1. Except as discussed in note 2, proposed new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line states that a new section, subsection, paragraph, subparagraph, or clause is being added, or that an existing section, subsection, etc. is being repealed and readopted (replaced), the new (or replaced) text is not bolded or underlined.
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is proposed to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”

Title 7. Health and Social Services.

7 AAC 57.010(a) is amended to read:

(a) The provisions of this chapter apply to child care facilities licensed or required to be licensed under AS 47.32.010 and this chapter. A facility regularly providing child care for five or more children who are not relatives of the caregiver may not operate as a child care facility unless the facility

- (1) has a current license issued by the department under this chapter; **or**
- (2) [HAS A CURRENT LICENSE ISSUED BEFORE JUNE 23, 2006; OR]
- [(3)] is exempt under 7 AAC 57.015.

7 AAC 57.010(b) is amended to read:

(b) A child care facility

(1) means a place where child care is regularly provided for children for periods less than 24 hours in duration unless nighttime care is authorized by the department;

(2) includes a child care center, a child care group home, and a child care home;

[AND]

(3) includes the **child care entity; in this section, “entity” means the administration, program, and physical plant of a child care facility, other parts of the building housing the facility, and adjoining grounds over which the administrator has direct control; and**

(4) includes the child care premises; in this section, “premises” means a place or location used in conjunction with the activities of the facility and includes all portions of structures, land, vehicles, equipment, supplies, water supply, wastewater system, and plumbing.

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(Eff. 6/23/2006, Register 178; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.020 AS 47.32.030
AS 47.32.010

7 AAC 57.025(a) is amended to read:

(a) For purposes of determining compliance with and achieving the purposes of AS 47.05.300 - 47.05.990, AS 47.32, 7 AAC 10.900 - 7 AAC 10.990 (Barrier Crimes, Criminal History Checks, and Centralized Registry), 7 AAC 10.1000 - 7 AAC 10.1095 (Environmental Health and Safety), and this chapter, **and** for purposes of ongoing monitoring, [OR TO ASSIST THE DEPARTMENT IN ITS REVIEW OF AN ANNUAL SELF-MONITORING REPORT SUBMITTED UNDER 7 AAC 57.050,] the department may conduct inspections and investigations under AS 47.32.060 and 47.32.090 - 47.32.110, including announced or unannounced onsite inspections and investigations under 7 AAC 10.9600 - 7 AAC 10.9620.

7 AAC 57.025(b) is repealed and readopted to read:

(b) In addition to compliance and monitoring reviews described in (a) of this section, the department will

(1) review for completeness a license application or variance request and notify the applicant within 10 days after the department receives the application or request of any omission or additional information required;

(2) conduct a pre-service health and safety inspection of the facility for the purposes of compliance for a provisional license within 90 days after the department receives a complete application;

(3) conduct a compliance inspection of the facility for the purposes of converting a provisional license to a biennial license, within 90 days prior to the provisional license expiration date;

(4) conduct an annual inspection of the facility for the purposes of monitoring compliance, within 60 days of the license anniversary date;

(5) conduct a renewal inspection of the facility for the purposes of determining compliance to renew a biennial license, within 90 days after the department receives a complete application;

(6) conduct an unannounced health and safety inspection of the facility for the purposes of monitoring compliance, annually within each licensing period;

(7) conduct an investigation of the facility for the purposes of determining compliance with licensing regulations when the department receives a complaint;

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am _____/_____/2014, Register _____)

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Authority:	AS 44.29.020	AS 47.32.010	AS 47.32.090
	AS 47.05.310	AS 47.32.020	AS 47.32.100
	AS 47.05.320	AS 47.32.030	AS 47.32.110
	AS 47.05.330	AS 47.32.060	AS 47.32.200
	AS 47.05.340		

7 AAC 57.030(c)(9) is amended by adding a new subparagraph to read:

(9) a copy of each

(A) fire safety inspection report required by a state or municipal authority responsible for those inspections, and a copy of any variance granted by one or more of these authorities; and

(B) report from an inspection required under 18 AAC 31 (Alaska Food Code), 18 AAC 60 (Solid Waste Management), 18 AAC 72 (Wastewater Treatment and Disposal), or 18 AAC 80 (Drinking Water); in addition to the report, the applicant must provide a copy of any variance, waiver, or exemption granted under those chapters;

(C) a business license to engage in that work, as required by AS 43.70, or any other license, permit, or certificate necessary to perform that work as required by a state or local government;

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2014, Register _____)

Authority:	AS 44.29.020	AS 47.05.340	AS 47.32.050
	AS 47.05.010	AS 47.32.020	AS 47.32.060
	AS 47.05.310	AS 47.32.030	AS 47.32.080
	AS 47.05.330	AS 47.32.040	

7 AAC 57.050 is repealed:

7 AAC 57.050. Self-monitoring reports. Repealed am ____/____/2014[EACH YEAR A CHILD CARE FACILITY SHALL SUBMIT TO THE DEPARTMENT A SELF-MONITORING REPORT THAT PROVIDES THE FACILITY'S ASSESSMENT OF ITS COMPLIANCE WITH THE APPLICABLE REQUIREMENTS OF AS 47.32, 7 AAC 10.1000 - 7 AAC 10.1095, AND THIS CHAPTER. A REPORT MUST BE SUBMITTED, ON A FORM PRESCRIBED BY THE DEPARTMENT,

(1) NO LATER THAN 30 DAYS BEFORE THE FIRST ANNIVERSARY DATE OF THE FACILITY'S BIENNIAL LICENSE; AND

(2) AS PART OF THE FACILITY'S BIENNIAL LICENSE RENEWAL APPLICATION UNDER AS 47.32.060].

(Eff. 6/23/2006, Register 178; repealed ____/____/2014, Register _____)

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7 AAC 57.220(b)(2) is amended to read:

(2) schedule work hours, so that the administrator or a child care associate is **on-site and** available to staff, **parents,** and children **during the normal business hours identified on the facility's license application and at any time the facility provides child care services outside the facility's normal business hours** [IN A CHILD CARE CENTER THAT SERVES 30 OR MORE CHILDREN, EXCEPT FOR SHORT ABSENCES];

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2014, Register ____)

Authority:	AS 44.29.020	AS 47.05.330	AS 47.32.010
	AS 47.05.310	AS 47.05.340	AS 47.32.030
	AS 47.05.320		

7 AAC 57.240(a)(4) is amended to read:

(4) a change in the plan of operation or other information included in the [INITIAL] application submitted under 7 AAC 57.030.

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2014, Register ____)

Authority:	AS 44.29.020	AS 47.05.330	AS 47.32.030
	AS 47.05.310	AS 47.32.010	AS 47.32.200

7 AAC 57.300(a) is amended to read:

(a) The administrator of a **child care center, child care group home, or** child care home [MUST BE AT LEAST 18 YEARS OF AGE. THE ADMINISTRATOR OF A CHILD CARE CENTER OR A CHILD CARE GROUP HOME] must be at least 21 years of age.

7 AAC 57.300(b) is amended by adding a new paragraph to read:

(4) have the skills necessary to handle finances and plan and evaluate programs.

7 AAC 57.300(c) is repealed and readopted to read:

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(c) The administrator of a child care center or child care group home must have the management and supervisory skills necessary to select and supervise personnel, including delegation or responsibility and motivation of staff.

Eff. 6/23/2006, Register 178; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 57.310(c)(1) – (4) are repealed and readopted to read:

(c) A caregiver must

- (1) verbally communicate daily or on an on-going basis with parents regarding their children's care, their children's needs, and when concerns or issues arise;
- (2) allow parental visits and encourage parental involvement;
- (3) demonstrate respect for each child in care and the child's family;
- (4) support behavior of children with positive guidance and set clear and consistent limits to promote the children's ability for self-discipline;

....

Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.05.340 AS 47.32.030
AS 47.05.310 AS 47.32.010 AS 47.32.130
AS 47.05.320 AS 47.32.020 AS 47.32.140
AS 47.05.330

7 AAC 57.320 is amended to read:

7 AAC 57.320. Caregiver age requirements and additional qualifications for adolescent caregivers. A caregiver in a child care facility must be at least 18 years of age to be counted toward meeting the child-to-caregiver[CAREGIVER-TO-CHILD] ratio requirements of 7 AAC 57.505, except that in a child care center, caregivers [CAREGIVER] 16 and [14 THROUGH] 17 years of age may be counted if

- (1) the caregiver has completed a child care training course or has demonstrated competency in child care to the administrator's satisfaction;
- (2) the caregiver works under supervision of an adult caregiver;
- (3) the caregiver works within sight or sound of an adult caregiver; and
- (4) [IN A CHILD CARE CENTER,]caregivers under 18 years of age make up no more than one-fourth of the total caregiving staff on duty.

(Eff. 6/23/2006, Register 178; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

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7 AAC 57.330(a) is amended to read:

(a) A child care center **must have** [SHALL DESIGNATE] at least one [FULL-TIME] **on-site** [ONSITE] child care associate for each 30 children who are present at the child care center.

7 AAC 57.330(c) is amended to read:

(c) **The administrator** [A CHILD CARE CENTER] may [DESIGNATE AN ONSITE ADMINISTRATOR TO] serve in the role of a child care associate, **in their absence**, for the first 30 children who are present at the child care center.

(Eff. 6/23/2006, Register 178; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 57.350(f) is amended to read:

(f) Except as provided in the training requirements of 7 AAC 57.300 for the administrator, and of 7 AAC 57.330 for a child care associate, a child care center, **child care group home, or child care home** shall ensure that each caregiver receives at least **24** [20] hours of training each year. The **24** [20] hours must be in addition to the orientation required under (a) of this section and the training in first aid and CPR required under (e) of this section.

7 AAC 57.350(g) is repealed:

(g) Repealed _____/_____/2014 [A CAREGIVER IN A CHILD CARE HOME SHALL COMPLETE AT LEAST 12 HOURS OF TRAINING ANNUALLY. THE 12 HOURS MUST BE IN ADDITION TO THE ORIENTATION REQUIRED UNDER (a) OF THIS SECTION AND THE TRAINING IN FIRST AID AND CPR REQUIRED UNDER (e) OF THIS SECTION].

7 AAC 57.350(h) is repealed:

(h) Repealed _____/_____/2014 [A CAREGIVER IN A CHILD CARE GROUP HOME SHALL COMPLETE AT LEAST 20 HOURS OF TRAINING ANNUALLY. THE 20 HOURS MUST BE IN ADDITION TO THE ORIENTATION REQUIRED UNDER (a) OF THIS SECTION AND THE TRAINING IN FIRST AID AND CPR REQUIRED UNDER (e) OF THIS SECTION].

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(Eff. 6/23/2006, Register 178; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 57.500(i)(3)(D) is amended to read:

(D) **playing near or** jumping on **any type of**[A STANDARD OR LARGE] trampoline.

(Eff. 6/23/2006, Register 178; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 57.505(a) is amended to read:

(a) Except as provided in (f) of this section, a child care home must have at least one caregiver, **also identified as the administrator, who** [AND] may provide care for no more than a total of eight children[UNDER AGE 13 YEARS], including the caregiver's **own** children under age **13** [12] years. Of the total children in care, no more than three children may be under the age of 30 months. Of the total children in care, including children under the age of 30 months, no more than two may be **non-ambulatory** [NONAMBULATORY].

7 AAC 57.505(b) is amended to read:

(b) Except as provided in[(c) AND] (f) of this section, a child care group home must have at least two caregivers, **of which one is the administrator,** and may provide care for no more than a total of 12 children, **including the caregivers' own children,** under age 13 years. Of the total children in care, no more than five may be under the age of 30 months. **Of the total children in care, including children under the age of 30 months,**[AND] no more than four may be **non-ambulatory** [NONAMBULATORY]. **A child care group home may decrease to one caregiver on-site if the number of children in care on a specific day decreases to no more than a total of eight children, including the caregivers' own children under age 13 years. Of the total children in care, no more than three children may be under the age of 30 months. Of the total children in care, including children under the age of 30 months, no more than two may be non-ambulatory.**

7 AAC 57.505(c) is repealed and readopted to read:

(c) Except as provided in (b) and (f) of this section, a child care group home requires only one caregiver, who is identified as the administrator or designated administrator, who has completed one year of licensed home child care or the equivalent, or meets the college credit, CDA credential, or Montessori credential requirements of 7 AAC 57.300(d), if

(1) there are no more than a total of ten children in care, including the caregiver's own children, under age 13 years. Of the total children in care, none may be under the age of 30 months, and no more than two of the children may be non-ambulatory; or

(2) there are no more than a total of 12 children in care, including the caregiver's own children, under age 13 years, and all of the children are school age.

(Eff. 6/23/2006, Register 178; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 57.520(e) is amended to read:

(e) The facility shall **encourage parental involvement and** allow [CUSTODIAL] parents free access to their children, and to all areas of a child care facility used by the children, to observe or participate[. IN THIS SUBSECTION, A CUSTODIAL PARENT IS AN INDIVIDUAL WITH THE CURRENT LEGAL RIGHT TO PHYSICAL CUSTODY OF CHILD UNDER THE PROVISIONS OF STATE LAW OR A COURT ORDER GRANTING PHYSICAL CUSTODY OF THE CHILD].

(Eff. 6/23/2006, Register 178; am 4/4/2013, Register 206; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 57.550(a) is repealed and readopted to read:

(a) At or before admission of a child, a child care facility shall obtain from the child's parent a valid immunization certificate or evidence that the child is exempt from immunization.

7 AAC 57.550(b) is repealed and readopted to read:

(b) A valid immunization certificate must be a copy of

(1) the child's original immunization record showing that, in a manner consistent with the timetable prescribed by the department's childhood immunization schedule, the child has received, or has begun and is continuing to receive, immunizations; or

(2) an immunization record which includes a statement or record by a physician, clinic, or health center indicating the date each required immunization was given.

7 AAC 57.550(c) is repealed and readopted to read:

- (c) Evidence that the child is exempt from immunization, including
- (1) a statement signed by a doctor of medicine (M.D.), a doctor of osteopathy (D.O.), a physician assistant, or an advanced nurse practitioner, licensed in this state, stating that immunizations would, in that individual's professional opinion, be injurious to the health of the child or members of the child's family or household;
 - (2) an affidavit signed by the child's parent or guardian, affirming that immunization conflicts with the tenets and practices of the church or religious denomination of which the parent or guardian is a member; or
 - (3) a statement signed by the parent, that the child is attending the child care facility for the first time and needs a one-day exemption, to obtain the document in (b)(1) and (b)(2), or (c)(1) of this subsection.

7 AAC 57.550(d) is repealed:

(d) Repealed ____/____/2014 EVIDENCE OF EXEMPTION FROM IMMUNIZATION MUST INCLUDE

(1) A STATEMENT SIGNED BY A DOCTOR OF MEDICINE (M.D.), A DOCTOR OF OSTEOPATHY (D.O.), A PHYSICIAN ASSISTANT, OR AN ADVANCED NURSE PRACTITIONER, LICENSED IN THIS STATE, STATING THAT IMMUNIZATIONS WOULD, IN THAT INDIVIDUAL'S PROFESSIONAL OPINION, BE INJURIOUS TO THE HEALTH OF THE CHILD OR MEMBERS OF THE CHILD'S FAMILY OR HOUSEHOLD;

(2) AN AFFIDAVIT SIGNED BY THE CHILD'S PARENT OR GUARDIAN, AFFIRMING THAT IMMUNIZATION CONFLICTS WITH THE TENETS AND PRACTICES OF THE CHURCH OR RELIGIOUS DENOMINATION OF WHICH THE PARENT OR GUARDIAN IS A MEMBER; OR

(3) AN ENTRY, FOR A ONE-DAY EXEMPTION, THAT THE CHILD IS ATTENDING THE CHILD CARE FACILITY FOR THE FIRST TIME.

7 AAC 57.550(f) is repealed and readopted to read:

(f) A satisfactory immunization audit report from the department, regarding an audit completed within the last 30 days for children that were in care at the time of the audit, will be accepted as evidence that the child care facility satisfies the requirements of (a) of this section.

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(Eff. 6/23/2006, Register 178; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 57.920 is amended to read:

An appeal from a department decision under AS 47.32, 7 AAC 10.1000 - 7 AAC 10.1095, or this chapter is subject to the provisions of AS 47.32.150. A **child care facility that** [PERSON WHO] wishes to appeal a decision may do so using a form prescribed by the department. (Eff. 6/23/2006, Register 178; am _____/_____/2014, Register _____)

Authority: AS 47.32.150

7 AAC 57.990(15) is amended to read:

(15) "facility" means a child care facility **described in 7 AAC 57.010(b)**;

7 AAC 57.990(30) is amended to read:

(30) "substance use disorder" means a diagnostic category that meets the criteria set out in the following documents, as amended from time to time and adopted by reference:

(A) the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, **adopted by reference in 7 AAC 160.900** [FOURTH Edition, Text Revision, dated 2000 (*DSM-V-TR*)];

(B) the *International Classification of Diseases - 9th Revision, Clinical Modification*, **adopted by reference in 7 AAC 160.900** [2006, (*ICD-9-CM*)], based on information compiled by the United States Department of Health and Human Services, and published by the **World Health Organization** [AMERICAN MEDICAL ASSOCIATION];

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am _____/_____/2014, Register _____)

Authority: AS 44.29.020 AS 47.32.030