

DEPARTMENT OF HUMAN SERVICES

Adoption of Chapter 17-895.1
Hawaii Administrative Rules

June 1, 2020

1. Chapter 17-895.1, Hawaii Administrative Rules, entitled "Licensing of Infant and Toddler Child Care Centers" is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 895.1

LICENSING OF INFANT AND TODDLER CHILD CARE CENTERS

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Historical Note: Chapter 17-895.1 is based substantially upon chapter 17-895, Licensing of Infant and Toddler Child Care Centers [Eff 11/07/91; am and comp 12/19/02, am 2/24/17, R]

SUBCHAPTER 1

LICENSING PROCEDURE

§17-895.1-1 Definitions. For the purpose of this chapter:

"Acting director" means a person who assumes the responsibilities of director of the child care facility in the absence of the director.

"Acutely ill" means temperature above ninety-nine degrees (axillary), one hundred degrees (oral), and one hundred and one degrees (rectal) and other symptoms, such as vomiting, diarrhea, undiagnosed general rash, contagious diseases, severe cough, or difficulty in breathing.

"Approved child development or early childhood training courses" means child development or early childhood courses taken from regionally accredited institutions of higher learning and other agencies or organizations authorized by the department which are automatically accepted. Other courses, workshops, or seminars may be approved by the department provided the agency or organization is recognized by the department as having child care expertise, has submitted a description of the course, workshop, or seminar which fully describes the subject matter covered, the total hours of training and name of the qualified trainer (see "qualified trainer").

"Background check" means a review of a person's background information pursuant to chapter 17-801.

"Caregiver" means any individual who is responsible for the physical well-being, health,

safety, supervision, and guidance of children in child care.

"Child" means any person who has not reached the age of eighteen years.

"Child care" means those situations where a person or organization has agreed to assume the responsibility for the child's supervision, development, safety, and protection apart from the parent or guardian for any part of a twenty-four hour day.

"Child care aide" or "aide" or "child care assistant" means any person who helps the lead caregiver or caregiver with all aspects of the planned program.

"Child care center" or "group child care center" means a place maintained by any individual, organization, or agency for the purpose of providing child care. The term child care center or group child care center shall include child nurseries, nursery school groups, preschools, child play groups, parent cooperatives, drop-in child care centers, group child care homes, after or before school, holiday, and summer care for elementary school age children, or other similar units operating under any name.

"Child care facility" means a place maintained by any individual, organization, or agency for the purpose of providing care for children with or without charging a fee at any time. It includes a family child care home, group child care home, and group child care center.

"Child development associate" or "CDA" means the credential issued by the Council for Professional Recognition.

"Child with special needs" means a child with a condition such as a physical, emotional, behavioral, or learning disability or impairment that causes the child to require additional or specialized services or accommodations.

"Compliance" means conformity in fulfilling the requirements of this chapter.

"Council for Professional Recognition" means the organization that administers the CDA credential.

"County building code" means the building code used by the applicable counties.

"Demonstration project" means any place providing child care which is operating with special approval of the department for exemptions to specific licensing or registration rules.

"Director" or "principal" or "lead caregiver" or "operator" means the person at the facility having responsibility for the administration of a child care center and its program.

"Drop-in care" means child care where children are permitted to arrive and leave at irregular, non-scheduled times during the facility's operating hours.

"Drop-in child care center" means a facility which accepts children for drop-in care.

"Emergency" means an unforeseen combination of circumstances which calls for immediate action.

"Facility" means the premises of the address on the application or license certificate for child care, or that are a part of a place in which child care is provided, including enclosed areas, lanais, and outdoor areas.

"Family child care home" or "family child care" or "FCC" means any private residence at which care is provided at any given time to six or fewer children, as defined in section 346-151, HRS.

"First aid kit" means materials and equipment in one location in a suitable container for meeting medical emergencies. A first aid kit shall be of the type approved by the American Red Cross, American Medical Society, or the department of health.

"Form 14" means a printed form made available by the state department of health or the state department of education to record a child's immunizations and health record.

"Group child care home" or "GCH" means child care provided by an individual in a facility that may be an extended or modified family child care home which provides care to no more than twelve children during any part of a twenty-four hour day. GCHs are licensed under the rules for group child care centers.

"Group size" means the number of children assigned to specific staff who occupy an individual classroom or defined physical space within a larger area.

"Guardian" means a person other than a child's parents who has legal authority over and responsibility for a child.

"Health care practitioner" means a physician who is licensed to practice medicine or osteopathic medicine (M.D. or O.D.), a physician assistant (PA), or an advanced practice registered nurse (APRN) licensed to practice in any of the states or territories of the United States, or a nurse practitioner (NP) licensed by the state of Hawaii.

"Ill" or "illness" is a subjective term which shall be defined by each provider with regard to admitting or not admitting sick children to child care.

"Infant" means a child who is six weeks to twelve months of age.

"Lavatory" means a vessel or basin for washing which is in conformity with plumbing codes in force in the state.

"Lead caregiver" or "teacher" or "teacher-director" or "lead teacher" means a person responsible for planning and implementing all or part of the program activities, preparing program materials, and supervising and training other staff.

"Liability insurance coverage" means a general casualty insurance policy issued to insure against legal liability for injury resulting from negligence to a child during the time the child is under the provider's care.

"License" means a certificate of approval issued by the state department of human services authorizing the operation of a child care facility.

"Local sanitary codes" means the specific rules set up by a county, the state department of health, or a comparable federal agency, which govern aspects of health and safety.

"Minor deficiencies" means deficiencies which do not involve risk to life, health, or safety of the children enrolled at the child care center.

"Night care" means child care provided to children who stay at night or overnight at a group child care center, group child care home, or family child care home. Care shall not be provided for twenty-four consecutive hours.

"Panic hardware" means a standard device on doors which permits quick and safe exits upon emergencies (e.g. push bars and plates).

"Person" means any individual with unsupervised access to children in care, caregiver, adult household member, applicant, provider, substitute, volunteer, new hire, rehire, temporary hire, or staff member in a child care facility or exempt child care facility.

"Policy" means a principal plan for the management of a child care facility.

"Primary caregiver" means the individual in the infant and toddler child care center to whom the care of a specific child and family is assigned. Primary care is defined as direct care, verbal and physical interactions, primary responses to infant's or toddler's physical and emotional needs while in the center, and continued interaction with parents regarding the infant's or toddler's experiences.

"Provider" means any individual eighteen years or older, caregiver, facility, agency or organization, exempt care providers, and adult employees, who provide child care to children in the absence of the child's caretaker.

"Provisional license" or "temporary permit" means a temporary license issued at the discretion of the department up to a maximum period of six months to any child care facility which is unable to conform to all the rules at the time the license is issued.

"Qualified nutrition consultant" means a dietitian or nutritionist who meets the advanced educational requirements for membership in the American Dietetic Association and is eligible for registration; or one who has a master's degree in public health nutrition or nutritional sciences.

"Qualified trainer" means a person who has twelve credits in early childhood or child development or related fields such as human development, psychology, social work, or nursing and a combined total of three years of experience in training adults who work with children or has six credits in early childhood or child development or related fields such as human development, psychology, social work, or nursing, and a combined total of five years of experience in training adults who work with children.

"Recalled" means any type of remedial action taken by a business for a corrective action plan agreed upon by the United States consumer product safety commission to address unsafe or potentially unsafe products to protect consumers, including the return of a product to the manufacturer or retailer for a cash refund or a replacement product, the repair of a product, or public notice of the hazard.

"Regionally accredited college or university" means any college or university that is recognized by the following regional accrediting organizations:

- (1) Middle State Associations of Colleges & Schools-Commission on Higher Education;
- (2) Northwest Commission on Colleges & Universities;
- (3) North Central Association of Colleges and Schools-the Higher Learning Commissions
- (4) New England Association of Schools and Colleges-New England Commission of Higher Education;
- (5) Southern Association of Colleges and Schools Commission on Colleges; or
- (6) Western Association of Schools and Colleges-Accrediting Commission for Community and Junior Colleges or Western Association of Schools and Colleges-Senior College and University Commission.

"Regular license" means a certificate of approval issued by the state department of human services to any child care facility which conforms to all the rules at the time the license is issued.

"Regularly" means the typical or normal pattern of the child care center, group child care home, or family child care home, or a practice or schedule that is routine and uniform and is not subject to unexplained or irrational variations.

"Rules" means the rules developed by the department of human services to set minimum standards of care and safety for the protection of children in care.

"Single service utensils" means the supplies or equipment used once to serve food (e.g. paper plates, cups, disposable forks).

"Staff member" means administrative, child care, office, maintenance, employees, and other support personnel who are employed by the child care facility, including volunteers and substitutes.

"State advisory committee on child care services" means a group of people appointed by the department of human services to advise the department on matters regarding child care, including child care rules.

"Substitute" means a person who serves as a replacement staff person for no more than ten consecutive working days in the same position when the regular staff person is absent on an emergency or unplanned basis.

"Supervision" means to be within sight and hearing distance of the children to insure their safety and protection.

"Temporary hire" means a person who serves as a replacement when the regular staff person is absent on a planned basis.

"Temporary permit" means the same as provisional license.

"Toddler" means a child who is twelve to thirty-six months of age.

"USDA child care food program" means the food standards established by the United States Department of Agriculture.

"Volunteer" means a person working or offering services to a child care facility without remuneration, except for reimbursable personal expenses allowed by the facility. [Eff]

§17-895.1-1

(Auth: HRS §346-162) (Imp: HRS §§346-151, 346-162)

SUBCHAPTER 1

LICENSING PROCEDURE

- §17-895.1-2 Application.** (a) A completed application to operate an infant and toddler child care center must include the following:
- (1) A signed department application form;
 - (2) A written statement of operation policies;
 - (3) Verification that the facility meets the applicable county codes;
 - (4) Results of the background checks as described in §17-801-4, and as indicated in (A) and (B) below:
 - (A) Applicants, their staff members, and prospective staff members shall provide background clearance records and consent to conduct such checks as indicated in section 17-801-4.
 - (B) The department shall conduct the background checks in accordance with chapter 17-801.
- (b) The date of application shall be the date a completed application as described in subsection (a) is received by the department.
- (c) Notification of the disposition of the completed application for certificate of approval shall be issued no later than ninety days from the date the completed application as defined in subsection (a) is received.
- (d) If the department fails to issue a notification of the disposition of the application within ninety days, the application shall be deemed approved and a license shall be issued .

(e) An application that is not completed as defined in subsection (a) within nine months from when the application form was received by the department shall be considered expired, and a new application must be submitted unless the licensing unit has granted additional time to satisfy all requirements in subsection (a). [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005, 5751, 9833)

§17-895.1-3 Inspection and issuance of license.

(a) In exercising its authority to license child care facilities or renew, suspend, or revoke the license, the department shall analyze the qualifications of providers of child care, review the facility's written policies and program provisions, and inspect the child care facility. Authorized representatives of the department and parents or guardians of the children in care may visit a child care facility at any time during the hours of operation for purposes of observing, monitoring, and inspecting the facilities, activities, staffing, and during investigations of complaints against the facility, and other aspects of the child care facility. The department may call on political subdivisions and governmental agencies for appropriate assistance within the agencies' authorized fields.

(b) The applicant or licensee shall cooperate with the department by providing access to its facilities, records, and staff. Failure to comply with reasonable requests may constitute grounds for denial, suspension, or revocation of license.

(c) After the initial licensure, the licensee shall ensure that new staff members comply with section 17-895.1-2(a)(4) within five working days of hire by the child care facility.

(1) New staff members shall meet the conditions in sections 17-801-5(a) and 17-801-5(b) prior to starting employment or volunteering at the child care facility.

(2) An applicant, staff member, or rehired staff member, who has left the state or no longer doing child care for a period of one hundred eighty consecutive days or more, shall comply with sections 17-801-5(a), 17-801-5(b), and 17-801-5(c).

(d) Annual background checks shall be conducted. The applicants and staff members shall provide consent to the department to conduct a background check in accordance with chapter 17-801 no later than the anniversary date of the last consent to conduct a background check.

(e) The department shall request the applicant or licensee to terminate the employment of a staff member determined to be not suitable to provide child care for children in accordance with chapter 17-801.

(f) The applicant or licensee shall comply with the conditions set forth in section 17-801-6(b)(2).

(g) The department shall request the applicant or licensee to exclude from the premises, the person who is the subject of an on-going or pending criminal, child welfare, or department investigation in accordance with chapter 17-801.

(h) The applicant or licensee shall comply with the conditions set forth in section 17-801-6(c)(2).

(i) Rules prescribed herein are minimum standards. The department shall issue a license under the following conditions:

(1) A regular license certificate shall be issued if the result of the department's evaluation indicates compliance with the applicable rules as established by the department; or

(2) A provisional license certificate shall be issued if the result of the department's evaluation indicates that all of the applicable rules cannot be met immediately but shall be met within six months or less, and the deviations are minor deficiencies.

(j) The length of the licensing period shall be as follows:

(1) For new applicants and those providers

licensed for less than four years, the licensing period is one year and for all other providers the licensing period may be two years, unless subsequently suspended or revoked.

- (2) During a licensing period, a provider may be issued more than one license certificate which may include a provisional license certificate followed by a regular license certificate. When this occurs, the total length of a licensing period shall be according to subsection (1).
- (3) A provisional license may be issued for up to six months; and
- (4) A license shall be renewed for a new licensing period only upon application and upon the department's approval. An application shall be submitted to the department at least ninety days prior to the expiration of the licensing period.

(k) Each regular license and provisional license shall clearly state the kind of program the licensee is permitted to operate, the address of the licensee, and the number and types of children who can be cared for at the facility.

- (1) A license certificate shall be valid for:
 - (1) One year for new applicants and for those who have been licensed for less than four years; and
 - (2) Two years for those who have been licensed for four years or more,

unless sooner revoked. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §§346-156, 346-161, 346-163, 346-164, 346-165; 42 U.S.C. §§2002, 2005)

§17-895.1-4 Fines. (a) The operation of a child care facility without a license is a violation and shall be punishable by a fine not to exceed the maximum amount allowable under the law.

(b) The following offenses may be punishable by a fine, not to exceed the maximum amount allowable under the law, and may also be subject to the denial, suspension or revocation of a license:

- (1) Caring for more children than allowed by the facility's license;
- (2) Violation of the staff-child ratios;
- (3) Improperly certifying staff credentials;
- (4) Failure to comply with timely request for background check as required in chapter 801;
- (5) Allowing conditions to exist at the facility which constitute a risk of harm or an imminent danger to the health, welfare, or safety of the children; or injuries to children resulting from the conditions;
- (6) Failure to report suspected child abuse or neglect that has occurred or will occur; or
- (7) Any behavior that may create an unsafe or unhealthy environment or may pose a risk of harm to children. [Eff]
(Auth: HRS §346-156) (Imp: HRS §§346-154, 346-156, 346-162, 350-1; 42 U.S.C. §§2002, 2005, 9833)

§17-895.1-5 Denial, suspension, revocation of license, and hearings. (a) The conditions for denial, suspension, or revocation of a license and the action to be taken by the department shall be as follows:

- (1) The department shall deny, suspend, or revoke a regular license or a provisional license if:
 - (A) An applicant or licensee does not comply with the applicable statutes and rules of the department respecting child care facilities; or
 - (B) The child care facility or any employee of the facility knowingly makes a false statement to any person concerning the

child care facility's liability
insurance coverage.

- (2) An applicant or licensee whose license is denied, suspended, or revoked shall be given written notice by certified or registered mail addressed to the location shown on the license application;
 - (3) The notice shall contain a statement of the reasons for the proposed action and shall inform the applicant or licensee of the right to appeal the decision to the director of the department in writing, within ten working days after the mailing of the notice of the proposed action;
 - (4) Upon receiving a timely written appeal the director of the department shall give notice of and an opportunity for a hearing before a hearing officer. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the application or license shall be denied, suspended, or revoked; and
 - (5) If no timely written appeal is made, processing of the application shall end or the license shall be suspended or revoked as of the termination of the ten day period.
- (b) The license shall be immediately suspended

when:

- (1) Conditions exist which constitute an imminent danger to the health, welfare, or safety of the children. These risks include: the existence of a health hazard on the premises, or unsafe facility conditions that cannot be immediately abated;
- (2) The department received a report of allegations which identify risks to the health, safety, or well-being of the children in care. These risks include: the existence of a health hazard on the premises, or unsafe facility conditions that cannot be immediately abated;

- (3) The provider refuses to terminate a staff member as specified in chapter 17-801; or
- (4) The provider refuses to exclude from the premises, the person who is the subject of an on-going or pending investigation in accordance with chapter 17-801.

(c) Upon immediate suspension pursuant to (b), the department shall take the following actions:

- (1) Provide the licensee written notice of the order by personal service, by certified, or registered mail addressed to the location shown on the license;
- (2) Provide a statement of the reasons for the suspension in the notice and inform the licensee of the right to petition the department to reconsider the order within ten working days after mailing of the notice; and
- (3) Declare that all operations shall cease as of the date of receipt of the notice, give the licensee reasonable notice upon receiving a written petition, and provide an opportunity for a prompt hearing before a hearing officer with respect to the order of suspension of the license. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the order of suspension shall be affirmed or reversed.

(d) At any hearing provided for by this section, the applicant or licensee may be represented by counsel and shall have the right to call, examine, and cross-examine witnesses. Evidence may be received even though inadmissible under rules of evidence applicable under court procedures. Hearing officer decisions shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to the last known addresses as may be shown in the application, on the license, or otherwise.

(e) Filing of a request for an administrative appeal does not permit the applicant or licensee to continue to care for children under this chapter.

(f) If an applicant or licensee has their regular or provisional license revoked, they shall be unable to apply for another license for:

- (1) A ninety-day period from the date that the license was revoked if the revocation was their first offense; and
- (2) One year from the date that the license was revoked if the revocation was their second offense. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-164; 42 U.S.C. §§2002, 2005)

§§17-895.1-6 to 17-895.1-9 (Reserved)

SUBCHAPTER 2

ADMINISTRATION REQUIREMENTS

§17-895.1-10 Age of children in care. An infant and toddler center may provide care to children aged six weeks and older. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §§346-14, 346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-11 Statement of operation policies.

(a) The facility shall have written operation policies which cover the following areas:

- (1) Ages of children accepted;
- (2) Maximum number of children permitted by license;
- (3) Specific hours of day, night, holiday, and

- vacation operation;
- (4) Type of child care services provided;
- (5) Whether the facility provides meals and snacks for the infant or toddler, or parents are to provide the meals and snacks;
- (6) Admission requirements and enrollment procedures;
- (7) Provisions which may be made for special needs of individual children;
- (8) Fees and the plan for payment, including fees for different types of services and refund policy;
- (9) Plan for emergency medical care;
- (10) Insurance coverage - each facility shall inform parents or guardians in writing of its policy relating to liability insurance;
- (11) Personal belongings brought to the facility;
- (12) Transportation arrangements;
- (13) Parental permission for trips and related activities outside the facility, if applicable;
- (14) Admission and care of ill children;
- (15) Administering medication;
- (16) Provision and management of diapers and other infant and toddler supplies;
- (17) Sanitation practices;
- (18) Grievances which shall include the department's information for parents to file a complaint;
- (19) Fundraising campaigns - children and staff shall not be exploited in activities which would be detrimental to the children or the program;
- (20) Mandated reporting of suspected child abuse or neglect in accordance with chapter 350, HRS;
- (21) Regular communication between caregivers and parents or guardians to relay information about the child;
- (22) Suspension and expulsion of children which includes the following:

- (A) The conditions under which a child may be suspended or expelled, if applicable;
 - (B) Sufficient timeframe before suspension or expulsion occurs to enable parents to make alternative child care arrangements or to take the necessary action to allow the child to remain enrolled, except as specified in (22)(C) below;
 - (C) Conditions that may warrant immediate expulsion such as imminent danger to the health, welfare, or safety of the children;
 - (D) Parents and guardians are provided written notification of any concerns that could lead to the child's expulsion; and
 - (E) When expulsion occurs, the provider shall maintain a record of the conditions, parental notification, and action taken; and
- (23) Other policies that may be required by the department.
- (b) Written policies and procedures shall be reviewed with each caregiver in the facility.
 - (c) Written policies shall be made available for review by parents or guardians at the time of enrollment of the infant or toddler. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-12 Liability insurance. A child care facility shall:

- (1) Obtain and maintain liability insurance coverage as defined in section 346-157, HRS;
- (2) Provide to the department evidence of liability insurance coverage; and
- (3) Notify the department and parents or guardians in writing within seven working

days of any change, cancellation, or termination of liability insurance coverage, that the coverage has been changed, canceled, or terminated while the parent's or guardian's child is cared for at the facility. [Eff _____] (Auth: HRS §346-157) (Imp: HRS §346-157)

§17-895.1-13 Information on owner or operator.

(a) The name, address, and telephone number of the facility shall be supplied to the department.

(b) The name, business address, and business telephone number of the persons bearing the responsibility for the child care facility shall be supplied to the department.

(c) The name, business address, and business telephone number of the persons having specific authority and responsibility for overall administration and the services offered shall be supplied to the department.

(d) The name of the owner or sponsoring agency (privately owned, church, or agency owned, etc.) of the facility shall be supplied to the department.

[Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-14 Change in services and staff. A facility shall notify parents or guardians and the department of any changes in the child care services it provides as follows:

- (1) Written notification of changes in the services offered by the facility shall be provided to the department and to parents or guardians of the children enrolled in the facility at least four weeks prior to the effective date of change.
- (2) A facility shall provide to the department written notification of changes in staff who

provide direct care to children within five working days after the change.

[Eff _____] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-15 Information and records on each child. (a) Admission procedures shall require sufficient information and instruction from the parents or guardians to enable the caregiver to make decisions or act on behalf of the child.

(b) Prior to the admission of a child to a facility, the provider shall obtain in writing from the child's parents or guardians the following information:

- (1) The child's full legal name, birth date, current address, and preferred names;
- (2) The names and addresses of the parents or guardians who are legally responsible for the child;
- (3) Telephone numbers or instructions as to how the parents or guardians may be reached during the hours the child is in the facility;
- (4) The name, address, and telephone number of person who shall assume responsibility for the child if for some reason the parent or guardian cannot be reached immediately in an emergency;
- (5) The names, addresses, and telephone numbers of persons authorized to take the child from the facility; and
- (6) Health information concerning the child, including any allergies as required by section 17-895.1-41.

(c) The information shall be available on facility forms and shall be kept current.
[Eff _____] (Auth: HRS §346-162) (Imp:
HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-16 Disclosure of information on the child. (a) Information pertaining to an individual child or parents or guardians of the child shall not be disclosed to persons other than the facility staff or the department, unless the parents or guardians of the child grant written permission for the disclosure or an emergency arises.

(b) The facility shall have release of information forms available for parents or guardians to sign.

(c) The parents or guardians shall be informed in writing of the facility's policy regarding disclosure of information. [Eff _____]
(Auth: HRS §346-162) (Imp: HRS §346-166; 42 U.S.C. §§2002, 2005)

§17-895.1-17 Information and records on facility. (a) The facility shall maintain, and make available to the department current records and information including:

- (1) Roster of enrolled children;
- (2) Daily attendance records by names of children;
- (3) Daily plan for feeding the children;
- (4) Daily schedule of activities; and
- (5) A list of staff members, including each staff member's position or title, training, experiences and health records;
- (6) Written permission from the parent to allow the child to have contact with pets or other animals; and
- (7) Log of emergency preparedness drills practiced in accordance with section 17-895.1-71.

(b) The child care facility shall report to the department, within one working day of occurrence, the death of a child or employee, and any illness or injury received at the child care facility that results in a child's hospitalization. [Eff _____]

] (Auth: HRS. §346-162) (Imp: HRS §346-166; 42
U.S.C. §§2002, 2005)

§17-895.1-18 Transportation provisions. Infant and toddlers transported in vehicles, either to and from the facility or for program activities, shall be protected by adequate supervision, safety precautions, and liability and medical insurance coverage as follows:

- (1) For transportation to and from the facility, the vehicle and driver shall satisfy all relevant motor carrier safety rules and traffic laws of the state;
- (2) During any field trip or excursion operated or planned by the facility, the staff-child ratio and group size requirements as provided in section 17-895.1-36 shall apply;
- (3) Children shall be instructed in safe transportation conduct as appropriate for age and stage of development;
- (4) Prior to transporting children, the child care facility shall obtain written permission from the parent or guardian that each child is allowed to be transported by school bus or other means of transportation such as a personal vehicle;
- (5) Children shall be secured in the seat of the bus or in the back seat of a personal vehicle in approved car seats or restraints;
- (6) A child shall not be left unattended in a vehicle;
- (7) Staff members shall take a head count or attendance record check before and after transportation is provided; and
- (8) During any field trip or excursion, staff members shall have available with them a first aid kit, emergency contact phone

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numbers, and medical treatment release forms signed by the child's parent or guardian.

[Eff _____] (Auth: HRS §346-162)

(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-895.1-19 to 17-895.1-24 (Reserved)

SUBCHAPTER 3

PROGRAM REQUIREMENTS

§17-895.1-25 Program provisions. (a) The program conducted in the facility shall provide for staff supervision of the infants and toddlers at all times and an environment and experiences which are developmentally appropriate which are aimed at promoting the infant or toddler's physical, emotional, intellectual, and social well-being, and supports the growth and integrity of the family unit.

(b) The director of the facility shall provide the department with a brief written description of the facility's program goals and activities, which shall include the following:

- (1) Provisions for the promotion of physical development, which shall include:
 - (A) Varied, developmentally appropriate physical activities; and
 - (B) Opportunities for the infants and toddlers to learn about the health, development, and care of their bodies including exercise, safety, nutrition, and hygiene, as appropriate to their age and development;
- (2) Provisions for the promotion of emotional development, which shall include:

- (A) Staff recognition of the special difficulties of infant and toddler separations and assistance to families, infants, and toddlers to make the transition from home to facility as gently as possible, such as a phased-in orientation process to allow infants and toddlers to experience limited amounts of time at the facility before becoming fully integrated;
- (B) Assignment of each infant or toddler to a primary caregiver who shall be responsible for care the majority of the time;
- (C) Prompt response by all caregivers to an infant or toddler's physical and emotional needs, i.e., feeding, diapering, holding, touching, and eye contact;
- (D) Recognition and care of each infant or toddler as an individual with opportunities for individual choices, self-expression, and some personal privacy;
- (E) Provision of constructive guidance and the setting of clearly defined limits which foster the infant or toddler's ability to be self-disciplined, as appropriate to their age and development;
- (F) Prohibition of use of:
 - (i) Physical punishment, abuse, or harm including but not limited to spanking, pinching, slapping, or shaking; or
 - (ii) Methods of influencing behavior which are frightening, humiliating, damaging, neglectful, or injurious to the infant or toddler's health or self-esteem; and

- (G) Providers shall respect each infant's or toddler's cultural, ethnic, and family background, as well as the child's primary language or dialect;
- (3) Provisions for the promotion of intellectual development, which shall include:
 - (A) Offering of frequent, but paced, personal, verbal, and physical interaction between caregiver and infant or toddler as part of the daily routine;
 - (B) Availability of a variety of learning materials, which staff helps children to use; and
 - (C) Hands-on experiences, including both familiar and new activities, to enable the infant or toddler to learn about themselves and the world; and
- (4) Provisions for the promotion of social development, which shall include:
 - (A) Caregiver behavior and interactions which emphasize and foster attitudes of mutual respect between adults and children and between children; and
 - (B) Guidance to infants and toddlers to enable them to develop and work out ways of getting along with each other, including an appreciation of cultural and ethnic diversity, as appropriate to the infant or toddler's level of understanding.

(c) The program shall provide a balance of active and quiet activities and shall recognize the infants and toddlers' need for uninterrupted sleep.

(d) In drop-in centers, every effort shall be made to place an infant or toddler, who uses the center frequently, with the same caregiver.

(e) The program shall provide information on and access to parenting resources (i.e., bulletin boards, classes, resource libraries, handouts).

[Eff _____] (Auth: HRS §46-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-26 Communication between parents and caregivers. (a) Centers shall obtain from the parent or guardian a description of the infant's or toddler's daily routine and behavior patterns prior to enrollment; and

(b) Caregivers shall relay information and concerns about the health, development, or behavior of the infant or toddler, as well as positive experiences, directly to the parents or guardians on the day of the major change, symptom, or event.
[Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-27 Program materials and equipment.

(a) The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be developmentally appropriate to the infants and toddlers in care.

(b) The quantity of materials and equipment shall be sufficient to:

- (1) Avoid excessive competition among the children and long waits for use of the materials and equipment; and
- (2) Provide for a variety of experiences and appeal to the individual interests of the infants and toddlers.

(c) Protected areas where equipment and materials will be used with minimal interference or interruption shall be provided.

(d) Materials and equipment shall be safe and kept clean and in good repair, not be recalled, stored in an orderly way, and arranged to allow children to select, remove, and replace the materials and equipment either independently or with assistance, as appropriate to their age and development.

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(e) Soft media or other protective measures shall be used under swings, slides, jungle gyms, and other similar outdoor play equipment.

(f) Equipment for both indoor and outdoor play shall allow children to use small and large muscles for imaginative play and creative activities.

(g) The following shall be available:

(1) High chairs, safety seats, or size-appropriate low seating for individual feeding;

(2) Adequate padding for safe floor play;

(3) Rocking or comfortable chair for infant and toddler feeding and comforting; and

(4) Individual storage spaces for children's clothing and personal belongings. [Eff

] (Auth: HRS §346-162)

(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-28 Transition to a new facility. (a)

A facility shall have a written policy to assist the infant or toddler in making a transition from the child care setting to a new type of care by communicating what will happen at the infant's or toddler's level of awareness or understanding.

(b) The provider shall cooperate with parents, guardians, new providers, or other caregivers when information is requested to assist an infant or toddler to adjust to a new environment as allowed by section 17-895.1-16. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-895.1-29 to 17-895.1-34 (Reserved)

SUBCHAPTER 4

STAFFING REQUIREMENTS

§17-895.1-35 Staff training, experience, and personal qualifications. (a) Each caregiving staff shall be qualified through training, experience, and personal qualities for the age group with which the person works.

(b) Staff growth and development shall be encouraged. The director shall make information about workshops, seminars, training sessions or other courses available to all staff and volunteers.

(c) Each caregiver, substitute, and volunteer within forty-five days of hire, shall complete initial training that is approved by the department in health and safety standards which addresses the following areas:

- (1) Prevention and control of infectious diseases (including immunizations);
- (2) Prevention of sudden infant death syndrome and use of safe sleeping practices;
- (3) Administration of medication, consistent with standards for parental consent;
- (4) Prevention and response to emergencies due to food and allergic reactions;
- (5) Building and physical premises safety;
- (6) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (7) Emergency preparedness and response planning for emergencies resulting from a natural disaster or a man-caused event;
- (8) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;
- (9) Appropriate precautions in transporting children;
- (10) Pediatric first aid and child cardiopulmonary resuscitation; and

(11) Recognition and reporting of child abuse and neglect.

(d) When a caregiver, substitute or volunteer has not provided child care for one hundred eighty consecutive days or more, the initial training in subsection (c) shall be repeated.

(e) After the initial training in health and safety standards is completed with one hundred percent accuracy and the results are received and recorded by the department, each caregiver shall complete department approved on-going training appropriate to the age of children the caregiver serves within twelve months from the date the initial training was received and recorded by the department, and then annually thereafter.

(1) Each caregiver staff member shall complete at least sixteen hours of training annually in at least two of the topic areas in subsection (f).

(2) Substitutes shall complete at least ten hours of training annually in at least two of the topic areas in subsection (f).

(3) Volunteers who serve ten hours or more a week shall complete at least eight hours of training annually in at least two of the topic areas in subsection (f).

(4) When an individual does not meet the requirements in subsection (e) and does not provide evidence of working to complete on-going training, the individual shall no longer be eligible to meet the staff-child ratio in accordance with sections 17-895.1-36(f) and 17-895.1-37.

(f) Each caregiver shall provide written evidence to the department to show completion of on-going training. The on-going training course, workshop, or class shall be different from the training topic areas completed in the prior twelve month period, except for safe sleep training required in accordance with section 17-895.1-96(b), and shall be in the following topic areas:

(1) Physical care of the young child;

- (2) Care of the sick child;
- (3) Child nutrition;
- (4) Child growth and development;
- (5) Children with special needs;
- (6) Learning activities and play;
- (7) Family engagement;
- (8) Managing challenging behaviors;
- (9) Community resources;
- (10) Prevention of child maltreatment and abuse;
- (11) Pediatric first aid and child cardiopulmonary resuscitation;
- (12) Health and safety;
- (13) Child care business or program management;
or
- (14) Physical environment; and
- (15) Safe sleep if permitted to care for children less than one year of age.

(g) Applicants and staff members shall be of reputable and responsible character and shall not have the following:

- (1) A criminal history record, employment history, sex offender registry history, child abuse or neglect history, or adult abuse history that may pose a risk to the infants and toddlers in care as specified in section 17-801-5; or
- (2) Any other situations that poses a risk to the health, safety or well-being of children in care.

(h) The director of an infant and toddler center shall have:

- (1) A bachelor's degree or higher in early childhood education (ECE), child development (CD), or related field from a regionally accredited college or university or transferable to a regionally accredited college or university; thirty hours of course work in infant and toddler development from an accredited teacher training institute or program; and twelve months of full time experience working with

- children under thirty-six months of age in a licensed group care setting; or
- (2) Two years of college education in early childhood education, child development, or related field; thirty hours of course work in infant and toddler development from an accredited teacher training institute or program; and twenty-four months of full time experience working with children under thirty-six months of age in a licensed group care setting.
- (i) A lead caregiver shall have:
 - (1) A bachelor's degree or higher in ECE or CD or related fields, e.g., maternal-child health, nursing, or human development; twelve months of full time experience working with children under thirty-six months of age in a licensed group care setting; twelve semester credits approved ECE or CD courses, which may be part of the bachelor's degree and shall be from a regionally accredited college or university or transferable to a regionally accredited college or university; and thirty hours of course work in infant and toddler development from an accredited teacher training institute or program; or
 - (2) A high school diploma, or its equivalent, and a child development associate credential; twenty-four months of full time experience working with children under five years of age in a licensed group care setting of which at least twelve months of experience shall have been with children under thirty-six months of age; twelve semester credits approved ECE or CD courses from a regionally accredited college or university or transferable to a regionally accredited college or university; and thirty hours of course work in infant toddler development from an accredited teacher training institute or program; or

- (3) Two years of college education, preferably in ECE or CD or related fields; twenty-four months of full time experience working with children under five years of age in a licensed group care setting of which at least twelve months of experience shall have been with children under thirty-six months of age; twelve semester credits approved ECE or CD courses from a regionally accredited college or university or transferable to a regionally accredited college or university; and thirty hours of course work in infant and toddler development from an accredited teacher training institute.
- (j) A caregiver shall have:
 - (1) A high school diploma or its equivalent, twelve months of full time experience working with children under thirty-six months of age in a licensed group care setting, twelve semester credits approved ECE or CD courses from a regionally accredited college or university or transferable to a regionally accredited college or university, and thirty hours of course work in infant and toddler development from an accredited teacher training institute or program; or
 - (2) A high school diploma or its equivalent, twenty-four months of full time experience working with children under thirty-six months of age in a licensed group care setting, and thirty hours of course work in infant and toddler development from an accredited teacher training institute or program; or
 - (3) No high school diploma, thirty-six months of full time experience working with children under thirty-six months of age in a licensed group setting, and thirty hours of course work in infant and toddler development from an accredited teacher training institute or program.

(k) A child care aide shall have:

- (1) A high school vocational child care training course; or
- (2) An orientation training in the center.

(l) A twelve-month non-renewable waiver may be granted to new hires, rehires, and current staff in director, lead caregiver, or caregiver positions, who meet all other requirements except the thirty hours course work in infant and toddler development from an accredited teacher training institute or program, to complete this required course work while concurrently serving in the capacity of the facility's director, lead caregiver, or caregiver.

(m) All staff members required to complete the thirty hours of course work in infant and toddler development from an accredited teacher training institute or program, as stipulated in subsections (f) through (h), shall, within two years of completion of this course work, obtain fifteen additional hours of course work in infant and toddler development from an accredited teacher training institute or program.

(n) When the fifteen additional hours of professional development in infant and toddler development is completed, the fifteen hours of professional development may count as meeting a portion of the required on-going health and safety training in section 17-895.1-35(e).

(o) The age requirements for staff shall be as follows:

- (1) Child care aide, volunteer, clerical, or maintenance personnel shall be at least fourteen years old, except that a child care aide, who is to be counted in the staff-child ratio, shall be at least eighteen years old; and
- (2) All other staff shall be at least eighteen years old.

(p) Volunteers shall:

- (1) Participate in an orientation to the program; or
- (2) Be a participant in a high school program

which includes training in infant and toddler care; and

- (3) Meet the requirements of regular staff members to be counted in the staff-child ratio.

- (q) Temporary hires shall meet qualifications of positions for which hired.

- (r) Substitutes for lead caregivers and caregivers shall be at least eighteen years of age and shall have participated in an orientation program of the facility, and the curriculum, lesson plans, and daily activities assigned to the substitute shall be closely supervised by the center's director.

- (s) Substitutes for director shall meet the qualifications of a caregiver and shall have worked in the facility for at least six months.

- (t) Substitutes for aides shall meet the qualifications of an aide.

- (u) Substitutes may be granted an extension to serve in the same position for more than ten consecutive days upon consultation with and approval of the department. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-36 Staff-child ratio and group size.

- (a) The staff-child ratio and group size shall be met and maintained by the facility during all hours of operation.

- (b) The staff-child ratio shall be in writing and shall be available to the department.

- (c) Staff members shall be on site and shall be regularly assigned to a particular group of children to be included in the staff-child ratio.

- (d) The director may serve as a caregiver, and be included in the staff-child ratio, only when total infant and toddler facility size does not exceed sixteen. The director may serve as a caregiver but shall not be included in the staff-child ratio in an infant and toddler program with more than sixteen children.

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- (1) Exception may be made and the director may be included in the staff-child ratio in cases of emergency or in special situations. This inclusion in the staff-child ratio shall not exceed ten hours per week.
- (2) Exception may be made and the director of only those facilities which operate full day may be included in the staff-child ratio during the first hour and the last hour of the regular operational day.

(e) Custodians, cooks, and bus drivers shall not be counted in the staff-child ratio when performing regular duties.

(f) The following staff-child ratios and group size shall be used in infant and toddler programs:

<u>Ages of Children</u>	<u>Staff-child ratio</u>	<u>Maximum Group Size Allowed</u>
6 wk - 12 mo.	1:3	6
	1:4	8
12 mo. - 24 mo.	1:3	6
	1:4	8
	1:5	10
	1:4	12
18 mo. - 36 mo.	1:5	10
	1:6	12

(g) Group size refers to the specific number of children assigned to specific staff who occupy an individual classroom or well-defined physical space within a larger room; when groups are assigned space within a larger room, there shall be room dividers to ensure that children stay within their assigned group area and to keep the noise level down.

(h) The ratios and group sizes in the table above shall apply, as stated, only to homogenous age groups.

(i) Multi-age grouping is both permissible and desirable; however, the following requirements and restrictions apply:

- (1) Children who are between the ages of six weeks to eighteen months can be grouped together; when this occurs, the ratio and group size shall be those required for the youngest child in the group according to the table above; or
- (2) Children who are between the ages of six months to thirty-six months can be grouped together; when this occurs, the ratio and group size shall be those required for the youngest child in the group according to the table above; or
- (3) In multi-age groups, the ratio and group size shall not exceed the ratio and group size for that of one age group higher than the youngest child in the group, and two thirds of the children must be in the oldest age group.

(j) Under no circumstances shall there be more than two children under three months of age in any group.

(k) Children with special needs shall be admitted, provided their needs can be met without jeopardizing the staff-child ratio or the quality of care of the entire group. All reasonable attempts shall be made to meet their needs. [Eff]
(Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-37 Staffing patterns. (a) There shall always be a minimum of two staff in the center when children are in care.

(b) When only one staff is required to supervise the children, as based on the staff-child ratio, the second staff shall be readily accessible and available to the staff who is supervising the children.

(c) For every group, there shall always be one

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staff who meets the qualifications of a lead caregiver or caregiver.

(d) When the group size requires three staff, there shall minimally be one staff who meets the qualifications of a lead caregiver and one who meets the qualifications of a caregiver.

(e) These staffing patterns shall be maintained at all times, except for the first hour and the last hour of the operational day when a caregiver can act in the position of a lead caregiver. [Eff]
(Auth: HRS §346-20) (Imp: HRS §346-20; 42 U.S.C. §§2002, 2005)

§§17-895.1-38 to 17-895.1-39 (Reserved)

SUBCHAPTER 5

HEALTH STANDARDS FOR INFANTS AND TODDLERS

§17-895.1-40 Health policies and health consultant. To assist in developing current and updating health policies, all programs shall have one of the following provisions:

- (1) The facility shall have on file written evidence that an arrangement has been made with a physician in private practice to provide consultation;
- (2) The facility has made a contractual arrangement with a private physician or non-profit health organization in the community to provide health care to the infants and toddlers in the program;
- (3) There is already a procedure existing in the community for the provision of health consultation service, and arrangements have been made for the use of this service; or

- (4) The infant and toddler program has a health advisory group that may serve in such a capacity. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-41 Evidence of child's health. (a)

The facility shall require and obtain from the parent or guardian of each infant and toddler entering their program a health record of the infant or toddler which complies with the provisions of chapter 11-157, which relate to the school entry examination requirements, immunization, physical examination, and chapter 11-164.2 for tuberculosis clearance which consists of the following:

- (1) Written evidence of a physical clearance obtained within two months of admission to the facility;
- (2) Written evidence that the infant or toddler has received a tuberculin clearance; and
- (3) Initial and continuous written evidence that immunizations are current; or
- (4) A written statement from a licensed physician certifying that the physical condition of the infant or toddler is such that immunizations would endanger the infant or toddler's life or health, in accordance with chapter 11-157; or
- (5) A written statement from a parent or guardian requesting exemption from the required immunizations on the grounds that such immunizations conflict with the parent or guardian's bonafide religious tenets and practices, in accordance with chapter 11-157.

(b) For children experiencing homelessness or in foster care, the child care facility shall allow a grace period of three months from the child's first day in care to obtain the evidence described in subsection (a), in accordance with chapter 11-157,

provided that the parents or guardians submit to the facility in writing the health needs for the child, including any allergies, at the time the child is placed in care.

(c) Medical clearance for care of a child with special needs shall be obtained before admission into an infant and toddler facility.

(d) The records of each child enrolled in the program shall include pertinent information about birth, health status, developmental progress, including prematurity and any special needs and efforts necessary to meet these needs. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-42 Emergency care provisions. (a) Every child care facility shall have provisions for emergency care of any child requiring treatment and for care of a child who becomes ill after arrival, as follows:

- (1) The child care facility shall have one of the following written policies which indicate that:
 - (A) The responsible individual in the child care center, i.e. director, caregiver or health-trained staff, has obtained the name of the nearest hospital or clinic where such care may be provided and has obtained written permission from each parent or guardian to provide emergency care to the infant or toddler at the hospital or clinic; or
 - (B) The child care facility's health consultant has made arrangements for emergency coverage, and written permission from each parent or guardian for use of this alternative emergency coverage for their infant or toddler shall be on file at the facility.

(b) If health care is provided in the child care facility, the facility shall have on file a written permission from each parent or guardian covering all aspects of health care which is provided at the facility.

(c) An adult shall accompany the child to the source of emergency care. The adult shall stay with the child until the parent or parent's designee assumes responsibility for the child's care. The selection of the adult shall not compromise the supervision of the other children in the program.

(d) Physical arrangements that are clean and safe for infants and toddlers, who become ill after arrival at the facility, shall be available for their care until parents or guardians can be notified to provide alternative arrangements.

(e) An operating telephone that is available and is easily accessible to the staff members to be used in case of an emergency;

(f) A plan for accessing a telephone when the child care is provided somewhere other than when not in the usual location where care is regularly provided. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-43 Pediatric first aid and child cardio-pulmonary resuscitation (CPR). (a) The first aid requirement shall be as follows:

- (1) There shall be at least one adult caregiver with a current certificate in pediatric first aid at the facility when children are present or at an off-site group activity, such as during field trips and excursions.
- (2) A current first aid certificate means a certificate that has not expired.
- (3) The current pediatric first aid certificate must be provided by the American Red Cross, American Heart Association, or any organization whose first aid certification standards are equivalent to the American Red

Cross or American Heart Association standards and be approved by the department.

(4) A first aid kit shall be available at the facility at all times.

(b) The child CPR requirement shall be as follows:

(1) There shall be at least one adult caregiver with a current certificate in child CPR at the facility when children are present or at an off-site group activity, such as during field trips and excursions.

The child CPR course must be provided by the American Red Cross, American Heart Association, or any organization whose child CPR certification standards are equivalent to the American Red Cross or American Heart Association standards and be approved by the department.

(2) A current certificate means a certificate that has not expired.

(3) If the provider is caring for infant children, the course shall include training in infant CPR. [Eff]
(Auth: HRS §346-162) (Imp: HRS §346-162;
42 U.S.C. §§2002, 2005)

§17-895.1-44 Admission of ill infants and toddlers. (a) Acutely ill infants and toddlers may only be admitted with adequate provision for isolation and adequate personnel to provide individual care.

(b) When health policies of the child care facility allow ill infants or toddlers to be admitted or to remain in the facility, health consultation shall be available regarding special care and medication.

(1) The child care facility shall have, in writing, the name, address, and telephone number of a physician or health resource that shall be called.

- (2) Written permission shall be required of the parent or guardian to call upon the stated physician or health resource, or another responsible source of care, if the parent or guardian cannot be reached.
- (c) Caregiving staff and parents or guardians shall be informed of the child care facility's policies on ill infants and toddlers.
- (d) The facility shall, in consultation with its health consultant, establish a readmission policy for children who have been absent because of illness which shall be provided to the parents or guardians. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-44.01 Administration of medication.

- (a) When medication prescribed by a physician is administered in the facility:
 - (1) The medication shall be kept in the original container bearing the prescription label, which shows the infant's or toddler's name, a current date, and the physician's directions for use;
 - (2) Medication shall be stored:
 - (A) In a refrigerator, if refrigeration is required; medication shall be separated from food by being enclosed in a covered container; or
 - (B) In a cool, dry, dark, and secured enclosure, which is inaccessible to the infants and toddlers, if refrigeration is not required.
 - (3) Medication shall be returned to parents or guardians when no longer in use; and
 - (4) There shall be an authorization signed by the parent or guardian for the facility staff to administer medication.
- (b) When over the counter medication is recommended by the infant's or toddler's doctor, medication shall be administered at the facility as

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directed in writing by the doctor. [Eff
] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C.
§§2002, 2005)

**§17-895.1-45 Admission of infants and toddlers
with special needs.**

(a) When infants and toddlers with special needs are admitted to a facility, the facility shall provide for the special needs of each infant or toddler.

(b) The infant or toddler with special needs shall be admitted only after consultation between the infant's or toddler's source of health care and the program's health consultant. The consultation shall include written recommendations to accommodate the child's special needs or to define the child's participation in the program.

(c) If the infant's or toddler's health care source considers it advisable, the staff of the program shall receive training related to the nature of the child's special needs before the infant or toddler is admitted to the facility.

(d) Where the nature of the infant's or toddler's special needs or the number of children with special needs in the program necessitates added care, staff and equipment shall be available to cover these requirements. [Eff
] (Auth: HRS
§346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-46 Daily nutritional needs.

(a) Meals and snacks of a quantity to complement food served at home shall be provided by the parent, guardian, or facility to meet the daily nutritional needs of the infant or toddler.

(b) In a facility providing meal service, the facility shall ensure that the minimum meal components and food amounts as required by the United States Department of Agriculture (USDA) Child Care Food Program, as adapted for Hawaii by the state department

of health, shall be provided.

(c) In a facility, where parents or guardians are allowed to provide food for their own child (i.e., formula or other foods for meals or snacks), the facility, in addition to food the child brings, shall provide the minimum amounts required by the USDA Child Care Food Program, by offering and providing children in care:

- (1) Four to eight hours - morning snack or breakfast or afternoon snack;
- (2) Eight hours or more - morning snack or breakfast and afternoon snack, unless the eight hours or more extend into the evening hours when the children may be asleep;

(d) For children twelve to thirty-six months of age, when two snacks are required, at least one of the snacks shall include the provision and offering of milk (or the individual child's formula) or its calcium equivalent.

(e) Information provided by parents, guardians, or the child's physician concerning the child's eating habits, food preferences, or special needs shall be considered in the children's feeding schedules and menus.

(f) Infants and toddlers shall not be offered foods to which they are allergic or, for religious reasons, cannot consume, and the parent or guardian of the child shall arrange for nutritious substitute foods.

(g) A list of food items that are provided by the caregiver shall be posted in a prominent place for review by parents.

(h) Signs of food sensitivity or allergy shall be reported in writing to the parent or guardian on the day this has been observed.

(i) Infants and toddlers shall be encouraged but shall not be required to eat the food offered by the facility, as follows:

- (1) Caregiver shall be alert to and consider individual infant and toddler cues in determining amounts of food to provide;
- (2) When solid foods are introduced, they shall

be carefully selected and added one at a time with a few days span between each new addition; and

(3) Food textures shall be adjusted to accommodate the individual child's chewing and swallowing ability, as well as preferences.

(j) Infants and toddlers shall not be offered foods which pose safety hazards.

(k) Food shall not be used as a punishment or reward.

(l) Infants and toddlers shall be personally attended while being fed.

(1) Infants being bottle fed shall have bottle held by the caregiver, not propped; and

(2) Parents or guardians may assume full responsibility for the infant's or toddler's diet.

(m) The child care facility's food service shall be approved and reviewed annually by a qualified nutrition consultant the facility has chosen or provided by an appropriate community resource.

(n) The facility shall have access to nutritional information provided by a qualified nutritionist, dietitian, or other community resources approved by the state department of health. [Eff

] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-47 Drinking water provisions. Potable water shall be offered to infants and toddlers throughout the day in sanitized bottles and cups. [Eff] Auth: HRS §346- 162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-48 Integration of mental health concepts. Mental health aspects of infant and toddler development shall be integrated into the program as

follows:

- (1) At least one parent, guardian, foster parent, or social worker shall be interviewed prior to an infant's or toddler's admission to the child care facility. The personal interview shall be conducted to secure pertinent information on the infant's or toddler's overall development and behavior and to acquaint the parent or guardian with the facility's program and policies;
- (2) The child care facility shall provide its staff members with annual orientation to state or other mental health services for infants and toddlers, or otherwise familiarize its staff with consultative and clinical services and programs for early identification of social, emotional, intellectual, and behavioral problems of infants and toddlers; and
- (3) The facility shall refer parents or guardians to sources of professional consultation in mental health upon the parents' or guardians' request or upon the recommendation of the facility's staff.
[Eff _____] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-895.1-49 to 17-895.1-54 (Reserved)

SUBCHAPTER 6

HEALTH STANDARDS FOR STAFF

§17-895.1-55 Staff health standards. (a)
Evidence that each caregiver staff member is free from

health problems, which would have a harmful effect on the infants and toddlers or which would interfere with effective functioning, shall be available at the facility as follows:

- (1) The results of an employment physical examination, and when indicated on a physical exam that the individual has a mental health disorder or limitation, a psychological exam, given within one year prior to employment of each person who works directly with children that indicates each person is in adequate physical, and if needed, mental health to care for children shall be on file at the facility;
 - (2) Written evidence that each person who works directly with children for any period of time is free from communicable tuberculosis in accordance with the requirements for child care facility personnel, under chapter 11-164.2. The tuberculosis clearance must be completed within one year before beginning child care and shall be on file at the facility. Each person shall complete updated clearances in compliance with chapter 11-164; and
 - (3) Each caregiver with an identified health problem shall provide the facility with a written statement from a physician that the caregiver is able and does not pose a health hazard to care for infants and toddlers.
- (b) The facility shall have provisions for substitution of staff who are too ill to function effectively or who present a serious health hazard to others in the facility. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-56 Personal health habits of staff.

- (a) The facility shall have written policies, which have been developed with the assistance of the

facility's health consultant and that minimally require:

- (1) Staff with fever, other symptoms of illness, or an altered physical or mental state, shall not be allowed to work;
- (2) Staff with visible skin conditions, such as lesions, boils, or dermatitis, shall not prepare or serve food or handle utensils and feeding equipment;
- (3) Staff's appearance shall reflect good grooming habits and personal hygiene, including clean and neat hair and nails, appropriate clothing, and good oral hygiene;
- (4) No smoking, including electronic smoking devices, is allowed in the presence of the infants and toddlers, nor in any parts of the building, which are used for child care, during the hours of child care operation, and personal nicotine products shall be stored out of reach of children;
- (5) Alcoholic beverages shall not be consumed prior to and during the hours of operation at the child care facility; if alcoholic beverages are stored at the facility, it shall be locked up and inaccessible to children;
- (6) Medication that impairs or limits the staff's ability to provide care shall not be consumed prior to or during the hours of child care; and
- (7) Staff shall take appropriate measures to manage stress by maintaining good mental and physical health.

(b) In-service training shall be provided to staff on various aspects of personal health care and healthy lifestyle, such as care of head lice (ukus), impetigo, viral infections, risk factors, and stress management.

(c) Volunteers shall be subject to the same requirements for health and personal health habits as the caregiving staff. [Eff] (Auth:

§17-895.1-61

HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-895.1-57 to 17-895.1-60 (Reserved)

SUBCHAPTER 7

SANITATION STANDARDS

§17-895.1-61 Handling of diapers, training pants, linen, and toys. (a) Diapers, training pants, and linen shall be handled in the following manner:

- (1) When disposable diapers are used, soiled diapers shall be placed in a plastic bag or a plastic lined receptacle;
- (2) When cloth diapers or training pants are used, diapers or training pants soiled with stool shall not be washed at the center; using disposable plastic gloves, the diaper or training pants shall be put in a sealed plastic bag to be picked up by the child's parent or guardian at the end of the day;
- (3) Sheets, diapers, and training pants soiled with blood, body fluids, or waste shall be handled as little as possible to prevent contamination of the area and of the staff handling the linen; and
- (4) Soiled sheets, diapers, and training pants, which are transported to a laundry area outside of the facility, shall be placed in plastic bags while being transported from the child care facility to the laundry.
- (5) Use a clean non-porous surface for changing diapers;

- (6) Use a space set aside for diapering that is separate from eating and food preparation areas; and
 - (7) Soiled disposable diapers shall be discarded in a covered container. The covered container shall be kept away from eating, food storage, and food preparation areas and out of children's reach.
- (b) Toys shall be provided and handled in the following ways:
- (1) Each of the designated groups shall be provided with developmentally appropriate toys;
 - (2) Toys shall not be shared between different groups of children, such as between infants and toddlers;
 - (3) Only washable toys shall be used for infants and toddlers in diapers or training pants; and
 - (4) Toys shall be washed or sanitized daily.
[Eff _____] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-62 Handwashing. (a) The facility shall have a written policy that specifies when handwashing is required for staff and children, defines handwashing procedure, and provides continuing monitoring to assure that the handwashing procedure is carried out.

- (b) Handwashing policy for staff shall require that handwashing is done:
- (1) Before and after eating or drinking;
 - (2) Before handling clean utensils or equipment;
 - (3) Before and after handling food or beverages;
 - (4) Before and after assisting or training the child in feeding and in toileting;
 - (5) After going to the bathroom;
 - (6) After handling any bodily fluids or items containing bodily fluids;

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- (7) After handling soiled diapers, clothes, or equipment;
- (8) After removing disposable gloves; and
- (9) After outdoor play.
- (c) Infants and toddlers, who self-feed in any manner, shall have their hands washed with soap and water before and after eating and after toileting.
- (d) Handwashing does not require hot water and may be done with cold water and plain soap.
- (e) If bar soap is used, it shall be kept on racks that allow for water drainage. If liquid soap is used, the dispenser shall be replaced or cleaned, as necessary.
- (f) Paper towels or separate cloth towels for each child shall be used for drying hands after handwashing. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-63 Housekeeping. (a) Facilities shall have written policies for the routine cleaning of the facility, furniture, equipment, and toys. These policies shall specify the type of disinfectant and cleaning agent used, method for cleaning, schedule for cleaning, storage of cleaning material and utensils, disposal of soiled items or spilled body fluids, and cleaning of equipment.

(b) Toys, table tops, furniture, and other similar equipment used by children shall be washed when the toys or equipment become gummy, sticky, or dirty.

(c) Cleaning materials shall be clearly labeled and stored in a secured area that is away from food preparation areas and is inaccessible to the infants and toddlers. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-895.1-64 to 17-895.1-70 (Reserved)

SUBCHAPTER 8

ENVIRONMENTAL HEALTH STANDARDS

§17-895.1-71 Disaster plan for emergencies. (a)

Each child care facility shall have a written disaster plan to cover emergencies such as fire, flood, or natural disaster or other emergencies, and the plan shall include written procedures for:

- (1) Evacuation;
- (2) Relocation of the child care facility if the facility becomes uninhabitable, or if the facility is ordered to evacuate;
- (3) Sheltering in place at the child care facility;
- (4) Lock-down of the child care facility;
- (5) Communication and reunification with families during and after an emergency;
- (6) Continuity of operations during and after an emergency;
- (7) Accommodation of toddlers during an emergency;
- (8) Providing for the needs of children with disabilities and children with special needs during an emergency;
- (9) Providing for the needs of children with chronic medical conditions during an emergency.

(b) The plan relating to fire emergencies shall be approved by the fire inspector, and the facility's health consultant shall review the plan as related to subsections (a) (8) and (9).

(c) The facility shall complete practice drills for the various emergency situations at regular intervals, or whenever a new procedure has been added.

(d) Each child care facility shall provide emergency preparedness training to staff members.

(e) The facility shall make the plan available for review by or provide a copy of the plan to each

family whose child is enrolled at the child care facility.

(f) The diagram of emergency exits shall be posted in a prominent place in the facility.

(g) An underwriters laboratory listed fire warning device or system shall be installed in each facility. Written evidence that the device or system has been inspected and approved by a fire inspector shall be current and on file at the facility.

(h) There shall be an unexpired ABC multi-purpose type fire extinguisher in every room where infants and toddlers are cared for.

(i) The provider shall notify the department within one working day when an emergency resulted in the evacuation, relocation, shelter in place, or lock-down of the facility. [Eff _____] (Auth: HRS §346-162) (Imp: HRS §346-162; §§2002, 2005)

§17-895.1-72 Accidental injury precautions. The facility shall ensure that the child care program and premises minimize the risk of accidental injury in the following manner:

- (1) Child care activities and premises shall take precautions not to expose the infants and toddlers to situations which may be hazardous to the particular age or capacity of the infant or toddler;
- (2) The program shall help infants and toddlers to increase awareness of safety practices and accident hazards and to teach them, as appropriate to their age and development, how to avoid such hazards;
- (3) Accident prevention practices and policies shall be available in writing. The practices and policies shall be reviewed annually and the staff shall become familiar with the policies and practices; and
- (4) The facility shall have written procedures for infection control, to use in all situations to prevent the transmission of

blood-borne pathogens that may be spread through blood and body fluids. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-73 Environmental hazards. The indoor and outdoor premises of the child care facility shall be free of environmental hazards, shall be clean and comfortable, and shall provide for adequate space to meet the needs of the infants and toddlers as follows:

- (1) The facility shall be protected against rodents and insects;
- (2) All entrances and exits shall be secured;
- (3) The outdoor space shall be fenced, or shall have natural barriers or other protective conditions to deter infants and toddlers from getting into unsafe areas.
- (4) There shall be no open drainage ditches, wells, or holes into which infants and toddlers may fall.
- (5) Drainage shall be adequate to prevent stagnant pools of water from accumulating.
- (6) Garbage and trash shall be stored in covered containers out of reach of the infants and toddlers and shall be removed frequently enough to avoid creating a health hazard or nuisance.
- (7) Sharp objects, household kitchen items, and tools shall be kept in a safe location and out of children's reach or shall be supervised when used safely;
- (8) Cleaning materials shall be clearly labeled and stored in a secured area which is inaccessible to the children. Cleaning materials shall be stored in a secured area away from food preparation areas during food preparation times.
- (9) Open fireplaces shall not be used. Floor heaters and all heating elements, including hot water pipes, shall be

insulated or installed in a manner which makes the pipes inaccessible to the infants and toddlers.

- (10) Children shall be supervised when using hot water taps;
- (11) Stove top controls shall not be accessible by children;
- (12) Floor space shall be arranged to provide areas for active play, quiet rest, and individual activities.
- (13) Emergency exits shall be clear of obstructions;
- (14) Indoor and outdoor structures, equipment, and toys shall be sturdily constructed and furnishings that have hazardous sharp edges, rust, and splinters are not accessible to children;
- (15) Electrical outlets accessible to children shall be covered with child-resistant outlet covers;
- (16) Electrical cords shall not cross pathways, and long cords shall be wrapped and secured;
- (17) Furniture, equipment, and toys shall be sturdily constructed, without sharp edges, and shall present minimal hazards to the infants and toddlers; also, furniture and equipment shall be physically proportionate to the infants and toddlers' sizes.
- (18) Lead based paint shall not be used or have levels greater than is recommended by the Environmental Protection Agency (EPA) on surfaces accessible to the infants and toddlers.
- (19) Poisonous plants shall be out of reach of the infants and toddlers on the premises.
- (20) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times.
- (21) If a lodging house, boarding house, or any other business conflicts with the regular operation of the child care center, the lodging house, the boarding house, or other

business shall not be conducted at the center.

- (22) All guns and weapons, including but not limited to, hunting knives and archery equipment, and related accessories shall be locked up, and ammunition shall be secured and locked in a separate place. [Eff] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-74 Water supply. (a) The water supply shall be from a source approved by the health authority and shall be under pressure. The plumbing shall be installed and maintained in a manner approved by local plumbing codes.

(b) Running water shall be available and shall be immediately adjacent and visually accessible to the care area. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-75 Toilet and lavatory facilities. Toilet and lavatory facilities shall be of a type determined by the availability of water under pressure. Approved facilities, water or non-water carriage, shall be provided for disposal of sewage and other liquid wastes. The following conditions shall apply:

- (1) Where a public sewer is available, all plumbing fixtures and building sewers shall be connected thereto;
- (2) Where a public sewer is not available, a private sewage disposal system of an approved type shall be installed and connected to all plumbing fixtures and building sewers;
- (3) Where water sewage disposal means are not available or feasible, sewage and other

- liquid wastes shall be disposed in a manner approved by the health authority;
- (4) Where water carried sewage disposal is available, water flush toilets shall be provided. Indoor toilets shall be separated from cooking, sleeping, or eating areas;
 - (5) Where water carried sewage disposal is not available, privies shall be used in accordance with local sanitary requirements and shall be designed with step stools or with holes sized to the age group;
 - (6) If toilet training chairs are provided for use by children, the toilet training chairs shall be emptied promptly, cleaned, and sanitized after use;
 - (7) Lavatories shall be provided in quantities commensurate with toilet facilities. Hot water temperatures shall not exceed one hundred degrees fahrenheit or thirty-eight degrees celsius, at outlets accessible to children;
 - (8) Toilet facilities shall be child sized, or safe, sturdy step stools shall be provided to allow standard sized toilets and lavatories to be used;
 - (9) There shall be a sink that is adequate size for the rinsing of children. The sink shall be cleaned and disinfected prior to and after use and shall not be used for handwashing, food preparing, or cleaning; and
 - (10) The facility shall ensure an adequate supply of sanitized bedding is available to any program caring for infants and toddlers.
- [Eff] (Auth: HRS §346-162)
 (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-76 Food preparation. Food preparation shall be carried out in a kitchen with proper equipment and cleanup facilities as follows:

- (1) All dishwashing shall be performed in a sanitary manner. A domestic dishwasher shall be acceptable, but if it is not available, the dishes shall be washed and rinsed in a sanitizing solution;
- (2) In a child care facility where food is prepared on the premises, adequate sized equipment for the size of the program shall be available. An approved dishwasher or a three compartment sink shall be used. Both the dishwasher and the three compartment sink shall require approval by the state department of health;
- (3) When food is prepared off the premises and is transported to the child care facility from a licensed preparation source, the food shall be kept in a safe and sanitary condition;
- (4) When single service utensils are used, the utensils shall be stored and handled in a sanitary manner and discarded after a single use; and
- (5) Cooking utensils used in food preparation and service shall be cleaned and stored in a sanitary manner. [Eff]
(Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-77 Food protection. (a) Food protection policies and practices, which comply with accepted practices of local sanitary codes in chapter 11-50, shall be developed and carried out in a manner that insures that all food is protected from contamination during storage, preparation, and service.

(b) Refrigeration shall be available for infant and toddler programs. [Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-78 Swimming activities and wading pools. (a) When swimming or wading pools are part of the child care facility, equipment, or program, the swimming pools shall be constructed, maintained, and operated in accordance with building and health rules.

(b) When swimming or wading activities are a part of the child care program, the following safety practices shall be observed:

- (1) A certified lifeguard, who may be a caregiving staff, shall be on duty at all times when swimming activities or swimming pools are in use;
- (2) Wading pools less than twenty-four inches at the deepest part shall be exempt from the requirements of section 17-895.1-40(b)(1), and the program shall comply with the following requirements:
 - (A) Wading pools shall be emptied immediately after each use; and
 - (B) Children shall be personally Attended by a responsible adult at all times; and
- (3) Legible safety rules for the use of all types of pools shall be posted in a conspicuous location and read and reviewed at regular intervals by the caregiver responsible for the care of children.
[Eff _____] (Auth: HRS §346-162)
(Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-895.1-79 to 17-895.1-84 (Reserved)

SUBCHAPTER 9

PHYSICAL FACILITY STANDARDS

§17-895.1-85 Building codes and space requirements. (a) Child care facilities shall conform to the zoning, building, electrical, plumbing, and fire codes of the county or political subdivision in which the facility is located and to state rules as may be applicable to the facility.

(b) The child care facility shall:

- (1) Be located in a safe and reasonably quiet area or employ suitable noise control devices to limit exterior noises to the child care operation;
- (2) Have ventilation and a sunny exposure or be well-lighted; and
- (3) Keep all buildings, building appurtenances, outdoor space, equipment, and all other parts of the facility repaired, safe, and sanitary at all times.

(c) The program areas specifically designated for infants and toddlers, both indoors and outdoors, shall be separated by permanent structural walls, fences or other barriers in order to:

- (1) Protect the younger children from traffic and high activity levels of older age groups;
- (2) Minimize congestion and noise pollution; and
- (3) Avoid staff specifically assigned to infant and toddler care from being pulled from infant and toddler programs into other areas at any time.

(d) The space requirements for enclosed areas are as follows:

- (1) For daytime care:
 - (A) There shall be thirty-five square feet per child of unencumbered instructional or play area exclusive of bathrooms, kitchens, cupboard space, hallways, and spaces consumed by cribs and playpens;
 - (B) The thirty-five square feet per child requirement can be based on the general square footage area of the entire

§17-895.1-85

center, not necessarily based on the square footage of each classroom; and

- (2) For nighttime care, there shall be fifty square feet per child in rooms which are used for sleeping.

(e) The center shall maintain, or have access to an outdoor play area of at least seventy-five square feet for each child using the outdoor area at any one time.

(f) The facility shall be equipped with toilets and lavatories as follows:

<u>Number of children</u>	<u>Toilet(s)</u>	<u>Lavatory(ies)</u>
1 - 12	1	1
13 - 30	2	2
31 - 45	3	3
46 - 60	4	4
61 - 75	5	5

[Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-895.1-86 to 17-895.1-89 (Reserved)

SUBCHAPTER 10

PROGRAM MODIFICATIONS

§17-895.1-90 Program modifications for drop-in care. (a) All requirements set forth in this chapter

shall be met by the provider except for section 17-895.1-41(a) and (d).

(b) Infants and toddlers receiving drop-in care shall be cared for in separate areas or groups from the other infants and toddlers who attend the program regularly.

(c) If a facility serves both drop-in children and children who attend regularly, the grouping of the children and the program shall be planned so that the needs of both groups are met.

(d) The facility shall have the following information in writing:

- (1) The ages of the infants and toddlers accepted for drop-in care;
- (2) The procedures for admittance and release of drop-in children; and
- (3) Arrangements for staffing and separate activities for drop-in children. [Eff
] (Auth: HRS §346-162)
Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-91 Program modifications for night care. A child care facility offering night care shall meet the requirements of this chapter and the following additional requirements:

- (1) In consultation with parents, special attention shall be given by the caregiver to provide for transition into night care;
- (2) A selection of developmentally appropriate toys for quiet activities shall be available;
- (3) Comfortable cribs, beds or cots that comply with the safe sleep requirements in sections 17-895.1-96 and 17-895.1-97, complete bedding and night clothes shall be available or supplied by the parents;
- (4) Cribs or beds shall be placed at least three feet apart;
- (5) Staff shall be available to assist the infants and toddlers, as required by their

- age and developmental level, during eating and pre-bedtime hours and during the morning period when dressing;
- (6) During sleeping hours, staff shall be within hearing distance at all times to provide for the needs of the infants and toddlers and to respond immediately in an emergency;
 - (7) An infant or toddler shall not sleep in a building detached from the main facility; and
 - (8) Night care facilities shall include at least one shower, bathtub, or bathing facility for infants and toddlers. [Eff
] (Auth: HRS §346-162)
Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§17-895.1-92 Program modifications for demonstration projects.

(a) An infant and toddler child care facility may establish a demonstration project for a specific purpose, or set of purposes, upon receiving written approval from the department.

(b) The facility shall submit a written proposal to the department indicating the following:

- (1) Purpose of the project;
- (2) Description of the project;
- (3) Length of the project;
- (4) Specific infant and toddler child care center rules that shall be exempted by the project; and
- (5) Justification for the proposed exemptions.

(c) The persons responsible for the project or the designated representatives shall appear in person to discuss the proposal with the department or the department's designated representatives, if requested by the department.

(d) A demonstration project, which has been approved in writing by the department, shall comply with all requirements imposed by the department at the time of its approval as follows:

- (1) The name or description of the project shall

include the words "licensed demonstration project";

- (2) Providers shall be able to show that at all times the demonstration project is in compliance with the infant and toddler child care center rules, except as specifically exempted or modified in the department's written approval; and
- (3) Within the last quarter of the time specified for the demonstration project, a written report shall be submitted to the department which shall include:
 - (A) Developments, findings, recommendations, and suggestions for further study; and
 - (B) Any proposed recommendations related to the demonstration project for changing or modifying infant and toddler child care center rules with justification therefor.

(e) Proposed demonstration programs disapproved or discontinued by the department shall not be permitted any further use of the words "demonstration project" in the identifying title, logo, or material.

[Eff] (Auth: HRS §346-162) (Imp: HRS §346-162; 42 U.S.C. §§2002, 2005)

§§17-895.1-93 to 17-895.1-95 (Reserved)

SUBCHAPTER 11

SAFE SLEEP

§17-895.1-96 Program requirements. (a) A child care facility shall have a written operation policy

regarding safe sleep when permitted to care for children less than one year of age.

(b) All employees and volunteers of the child care facility caring for children less than one year of age shall review the child care facility's written operation policy regarding safe sleep and complete training in safe sleep practices that is approved by the department, upon hire and on an annual basis, and the child care facility shall maintain a record of policy reviews and trainings completed.

(c) The child care facility shall ensure the following for sleeping children less than one year of age:

- (1) Children shall be placed on their backs to sleep or in accordance with the written instructions on file at the child care facility from a health care practitioner for alternate sleep positioning;
- (2) Sleeping children are physically monitored and periodically checked; and
- (3) A child who falls asleep in a location or equipment other than a crib or playpen shall be moved to a crib or playpen for the remainder of the nap. [Eff]
(Auth: HRS §346-152.7) (Imp: HRS §346-152.7; 42 U.S.C. §§2002, 2005, 9833)

§17-895.1-97 Sleep environment. (a) A child care facility shall use cribs and playpens that have not been recalled by the United States consumer product safety commission; provided that a recalled item may be used if repaired in accordance with the manufacturer's standards, and the child care facility maintains a record of the repair.

(b) Soft bedding, bumper pads, and other objects shall not be placed in the crib or playpen for children less than one year of age.

(c) A clean, tightly fitted crib sheet shall be used to cover the crib or playpen for children less than one year of age.

(d) Sleeping areas shall be kept ventilated and at a safe temperature.

(e) Bed-sharing is not allowed.

(f) The child care facility shall not use recalled items for children, such as cribs, playpens, and other equipment unless the item has been repaired in accordance with the manufacturer's standards and the child care facility maintains a record of the repair.

(g) For children ages one year and older, the following sleeping equipment shall be available:

(1) Individual bed, crib, cot, mat, or rug for each child who rests; and

(2) A clean sheet or cover to be used on the bed, crib, cot, mat, or rug for each child."

[Eff] (Auth: HRS §346-152.7) (Imp: HRS §346-152.7; 42 U.S.C. §§2002, 2005, 9833)

2. The adoption of chapter 17-895.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on June 1, 2020 and filed with the Office of the Lieutenant Governor.

CATHY BETTS
Director of Human Services

APPROVED AS TO FORM:

Deputy Attorney General