

DEPARTMENT OF HUMAN SERVICES

Adoption of Chapter 17-891.2
Hawaii Administrative Rules

June 1, 2020

1. Chapter 17-891.2 Hawaii Administrative Rules, entitled "Registration of Family Child Care Homes" is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 891.2

REGISTRATION OF FAMILY CHILD CARE HOMES

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Historical Note: This chapter is based substantially upon Chapter 17-891.1, Hawaii Administrative Rules. [Eff 6/18/87; am and comp 12/19/02; R]

SUBCHAPTER 1

REGISTRATION PROCEDURE

§17-891.2-1 Definitions. For the purpose of this chapter:

"After school care" means child care provided after the end of the regular school day during the academic year for children who are kindergarten age and above who are enrolled in public or private elementary schools.

"Applicant" means the person who applied for registration of their family child care home and includes this person's spouse.

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

"Before school care" means child care provided before the start of the regular school day during the academic year for eligible children kindergarten and

above who are enrolled in public or private elementary schools.

"Caregiver" means any individual who is responsible for the physical well-being, health, safety, supervision, and guidance of children in child care.

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

"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 center" or "group child care center" means a place other than a private home, maintained by any individual, organization, or agency for the purpose of providing child care. The term child care center shall include child care 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 registration rules.

"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 that is on the application or certificate of registration 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.

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

"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 children who are newborn up to age one (through the twelfth month).

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

"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 special 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 permit 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.

"Provider" means any individual 18 years or older, caregiver, child care 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" "provisional certificate of registration," or "temporary permit" means a temporary certificate of registration issued at the discretion of the department up to a period of six months to any child care facility which is unable to conform to all the rules at the time the certificate of registration is issued.

"Qualified nutrition consultant" means a dietician 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.

"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, and/or public notice of the hazard.

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

"Regularly" means the typical or normal pattern of the child care center or family 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 child 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, adult household members, and other support personnel who are employed by the child care facility, including volunteers and substitutes.

"State child care advisory committee" 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 when another caregiver is absent.

"Supervision" means the act of being within sight or hearing distance of the children to insure the safety and protection of the children.

"Temporary permit" means the same as provisional license.

"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 caregivers. [Eff]
(Auth: HRS §346-172) (Imp: HRS §§346-151, 346-172)

§17-891.2-2 Application. (a) A completed family child care home application shall include the following:

- (1) A signed departmental application form;
- (2) Evidence of satisfactory physical examination and TB clearance for all household members;
- (3) Two letters of reference, as specified in section 17-891.2-35(c);
- (4) Results of the background checks as described in section 17-801-4, and as indicated in sections (A) and (B) below.
 - (A) Applicants, their staff members, and

prospective staff members shall provide background clearance records and consent to conduct background checks as indicated in section 17-801-4.

(B) The department shall conduct the background checks in accordance with chapter 17-801;

(5) Verification that the condominium or townhome association allows the applicant to operate a family child care home.

(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 shall be issued no later than ninety days from the date of 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 §346-172) (Imp: HRS §§346-154, 346-172; 42 U.S.C. §§2002, 2005, 5751, 9833)

§17-891.2-3 Inspection and issuance of certificate of registration. (a) In exercising its authority to register family child care homes or renew, suspend, or revoke the certificate of registration, the department shall analyze the qualifications of providers of child care, review the home's written policies and program provisions, and inspect the home. Authorized representatives of the department and parents or guardians of children in care may visit a family child care home at any time

during the hours of child care 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 home. The department may call on political subdivisions and governmental agencies for appropriate assistance within the agencies' authorized fields.

(b) The applicant or registrant 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 the certificate of registration.

(c) After the initial registration, the registrant shall ensure that staff members comply with section 17-891.2-2(a)(4) within five working days of hire by the family child care home or residence in the family child care home.

- (1) New staff members shall meet the conditions in section 17-801-5 prior to starting employment or volunteering in the family child care home.
- (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).
- (3) New household members of family child care homes shall meet the conditions in section 17-801-5.

(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 registrant to terminate the employment or residence 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 registrant shall comply with the conditions set forth in section 17-801-6(b)(2).

(g) The department shall request the applicant or registrant 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 registrant shall comply with the conditions set forth in section 17-801-6(c)(2).

(i) Rules prescribed in this chapter are minimum standards. The department shall issue a certificate of registration under the following conditions:

(1) A regular certificate of registration 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 certificate of registration 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 do not threaten the health or safety of the children.

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

(1) For new applicants and those providers who have been registered for less than four years, the registration period is one year, and for all other providers the registration period may be two years, unless subsequently suspended or revoked.

(2) During a registration period, a provider may be issued more than one certificate of registration which may include a provisional certificate of registration followed by a regular certificate of registration. When this occurs, the total length of a registration period shall be according to paragraph (1).

- (3) A provisional certificate of registration may be issued for six months; and
- (4) A certificate of registration shall be renewed for a new registration 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 registration period.

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

(1) A certificate of registration shall be valid for:

- (1) One year for new applicants and for those who have been registered for less than four years; and
- (2) Two years for those who have been registered for four years or more;

unless sooner revoked. [Eff _____] (Auth: HRS §346-172) (Imp: HRS §§346-154, 346-156, 346-171, 346-172, 346-173, 346-175; 42 U.S.C. §§2002, 2005, 5751, 9833)

§17-891.2-4 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 ratio;
- (3) Failure to comply with timely request for background check as required in chapter 17-801;

- (4) 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;
- (5) Failure to report suspected child abuse or neglect that has occurred or will occur;
- (6) 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)

§17-891.2-5 Denial, suspension, revocation of certificate of registration, and hearings. (a) The conditions for denial, suspension, or revocation of a certificate of registration and the action to be taken by the department are as follows:

- (1) The department shall deny, suspend, or revoke a regular or provisional certificate of registration if:
 - (A) An applicant or registrant 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) The department shall suspend the registration if the violation of the minimum requirement is the first violation of the provider and does not warrant revocation.
- (3) The department shall revoke the registration if the provider has violated any minimum requirement to such an extent or of a nature that the provider is unfit to be trusted with the care of children, or if the provider's registration has been suspended

- at least once previously.
- (4) An applicant or registrant whose certificate of registration is denied, suspended, or revoked shall be given written notice by certified or registered mail addressed to the location shown on the certificate of registration or application;
 - (5) The notice shall contain a statement of the reasons for the proposed action and shall inform the applicant or registrant of the right to appeal the decision to the director of the department in accordance with Hawaii Revised Statute, chapter 91, not later than ten working days after the mailing of the notice of the proposed action.
 - (6) Upon receiving a timely written appeal, the director of the department shall give written 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 certificate of registration shall be denied, suspended, or revoked; and
 - (7) If no timely written appeal is made, processing of the application shall end or the certificate of registration shall be suspended or revoked as of the termination of the ten day period.
- (b) The certificate of registration 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 registrant written notice of the order by personal service, by certified, or registered mail addressed to the location shown on the certificate of registration;
 - (2) Provide a statement of the reasons for the suspension in the notice and inform the registrant of the right to petition the department to reconsider the order not later than ten working days after mailing of the notice;
 - (3) Declare that all operations shall cease as of the date of receipt of the notice, and provide an opportunity for a prompt hearing before a hearing officer with respect to the order of suspension of the certificate of registration. 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; and
 - (4) Notify the parent or legal guardian of each child who is provided care in the family child care home of the suspension or revocation.
- (d) At any hearing provided for by this section, the applicant or registrant may be represented by counsel and has 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 certificate of registration, or otherwise.

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

(f) If an applicant or registrant has their regular or provisional certificate of registration revoked, they shall be unable to apply for another certificate of registration for:

- (1) A ninety-day period from the date that the certificate of registration was revoked if the revocation was their first offense; and
- (2) One year from the date that the certificate of registration was revoked if the revocation was their second offense. [Eff] (Auth: HRS §346-172) (Imp: HRS §§346-154, 346-175; 42 U.S.C. §§2002, 2005, 9833)

§§17-891.2-6 to 17-891.2-9 (Reserved)

SUBCHAPTER 2

ADMINISTRATION REQUIREMENTS

§17-891.2-10 Number and age of children in care.

A family child care home shall provide care for no more than six children at the same time. The following provider's children are not included in this total:

- (1) Children six years of age or older; and
- (2) Children under six years of age who are not in the care of the provider. [Eff] (Auth: HRS §§346-172, 346-14) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-11 Statement of operation policies.

(a) A child care facility shall have written operation policies. Family child care home policies shall include:

- (1) Ages of children accepted;
- (2) Maximum number of children permitted by certificate of registration;
- (3) Specific hours of day, night, holiday, and vacation operation;
- (4) Whether or not meals are served;
- (5) Fees and the plan for payment, including fees for different types of child care services and refund policy;
- (6) Plan for emergency medical care;
- (7) Insurance coverage - each provider shall inform parents or guardians in writing of its policy relating to liability insurance;
- (8) Transportation arrangements;
- (9) Parental permission for trips and related activities outside the facility;
- (10) Admission of ill children, or children with special needs;
- (11) Administering medication;
- (12) Grievances which shall include the department's information for parents to file a complaint;
- (13) Mandated reporting of suspected child abuse or neglect in accordance with chapter 350, HRS;
- (14) Regular communication between caregivers and parents or guardians to relay information about the child;
- (15) 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 (14)(C) below;

- (C) Conditions that may warrant immediate expulsion such as imminent danger to the health, welfare, or safety of the children;

Parents and guardians are provided written notification of any concerns that could lead to the child's expulsion; and

- (D) When expulsion occurs, the provider shall maintain a record of the conditions, parental notification, and action taken; and

- (16) Other policies that may be required by the department.

(b) Written operation policies shall be reviewed with each caregiver in the facility.

(c) The policies shall be reviewed by the provider with each parent or guardian at the time of enrollment of a child and when changes are made. [Eff] (Auth: HRS §346-172) (Imp: HRS §§346-157, 346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-12 Liability insurance. (a) 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)

§17-891.2-13 Information on owner or operator.

- (a) The name, address, and telephone number of the facility shall be provided to the department.
- (b) The name of any sponsoring agency shall be provided to the department. [Eff]
(Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-14 Change in services and staff members.

- (a) A facility shall notify parents or guardians and the department of any changes in the child care services it provides. Notification of any changes in service shall be made no later than thirty days before the date of the change, and the changes shall be included in the facility's operating policies.
- (b) The provider shall inform the department in writing of changes in staff members who provide direct care to children within five working days after the change. [Eff] (Auth: HRS §346-172)
(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-15 Information and records on each child.

- (a) Admission procedures shall require that sufficient information and instruction from the parents or guardians be furnished to enable the provider to make decisions or act on behalf of the child.
- (b) Prior to admission of a child to a facility, the provider shall obtain the following information from the child's parents or guardians:
- (1) The child's full legal name, birth date, current address, and preferred names;
 - (2) The name and home address 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; and
 - (4) Health information concerning the child, including any allergies as required by sections 17-891.2-41 and 17-891.2-42.
- (c) The information shall be maintained in writing and shall be kept current. [Eff
] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-16 Disclosure of information on the child. Information pertaining to an individual child or parents or guardians of the child shall not be disclosed to persons other than the facility personnel unless the parents or guardians of the child grant written permission for the disclosure or an emergency arises. [Eff
] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

- §17-891.2-17 Information and records on facility.**
- (a) Written information and records on the facility shall be maintained and made available to the department. Current records and information shall include:
- (1) Roster of enrolled children;
 - (2) Daily attendance record by names of children;
 - (3) Written permission from the parent to allow the child to have contact with pets or other animals; and
 - (4) Log of emergency preparedness drills.
- (b) The provider shall report to the department, within one working day of occurrence, the death of a child, employee, or household member, and any illness or injury received at the child care facility that results in a child's hospitalization. [Eff
] (Auth: HRS §346-172) (Imp: HRS §346-172; 42

§17-891.2-18

U.S.C. §§2002, 2005, 9833)

§17-891.2-18 Transportation provisions. When transportation is provided, children shall be protected by adequate supervision and safety precautions as follows:

- (1) The vehicle and driver providing transportation shall satisfy all relevant motor carrier safety rules and traffic laws of the state;
- (2) No more than six children under the age of six years shall be transported when only one adult is in the vehicle;
- (3) Children shall be instructed in safe transportation conduct as appropriate for age and stage of development;
- (4) 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;
- (5) Prior to transporting children, the provider shall obtain written permission from the parent or guardian that each child is allowed to be transported by the provider in a personal vehicle or by public bus;
- (6) A child shall not be left unattended in a vehicle;
- (7) The provider shall take a head count or attendance record check before and after transportation is provided; and
- (8) During any field trip or excursion, the provider shall have available with them a first aid kit, emergency contact phone numbers, and medical treatment release forms signed by the child's parent or guardian.
[Eff _____] (Auth: HRS §346-172)
(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§§17-891.2-19 to 17-891.2-24 (Reserved)

SUBCHAPTER 3

PROGRAM REQUIREMENTS

§17-891.2-25 Program provisions. There shall be a provider or a responsible adult, designated by the provider, supervising the children at all times. The provider or responsible adult shall always be within sight or hearing distance to provide for the needs of the children and to respond to an emergency. The program shall also provide an environment and experiences which are aimed at promoting the individual child's physical, intellectual, emotional, and social well-being and growth. This shall be done in the following ways:

- (1) Activities that promote physical development shall include:
 - (A) Daily opportunities for running, climbing, and other vigorous and varied physical activities; and
 - (B) Opportunities for children to learn about the health, development, and care of the children's bodies, including exercise, nutrition, and hygiene;
- (2) Programs to promote intellectual development shall:
 - (A) Provide that a variety of learning materials are introduced and are available to the children; and
 - (B) Include first-hand experiences for children to learn about the world; and
- (3) Programs to promote emotional development shall provide that:
 - (A) There are opportunities for individual self-expression;
 - (B) Each child is recognized as an

- individual;
- (C) The child is afforded constructive guidance and the setting of clear-cut limits which foster the child's own ability to be self-disciplined;
- (D) Each child's personal privacy is respected;
- (E) Providers shall not use:
 - (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, injurious, neglectful, or damaging to the child's health or self-esteem; and
- (F) Providers shall respect each child's cultural, ethnic, and family background, as well as the child's primary language or dialect;
- (4) Programs to promote social development shall provide that:
 - (A) Children are guided in learning to get along with each other;
 - (B) Providers interact with children in ways which promote mutual respect between adults and children; and
 - (C) Providers behave in ways which help the children develop attitudes of respect for all other persons as individuals and develop an appreciation of ethnic and cultural diversity;
- (5) The activities and experiences provided by the program shall be appropriate to the developmental level of the children;
- (6) The program shall encourage the development of the children's special interests and abilities;
- (7) The program shall provide a balance of active and quiet activities; and
- (8) The program shall provide for the self-direction of the children by:

- (A) Affording children opportunities to choose activities according to personal desires and interests and to move from one activity to another;
- (B) Encouraging children to do things independently; and
- (C) Providing children opportunities to be involved in decision making about group and individual activities. [Eff] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-26 Communication with parents. (a)

Providers shall obtain from the parent or guardian a description of the child's daily routine and behavior patterns prior to enrollment.

(b) Caregivers shall relay concerns about the health, development, or behavior of the child to the parents or guardians promptly and directly.

[Eff] (Auth: HRS §346-172)
(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-27 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 appropriate to the ages of the children in care.

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

- (1) Avoid excessive competition between the children and to avoid 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 children.

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

§17-891.2-27

(d) Materials shall be safe and kept in good repair, not be recalled, and shall be accessible to children. The materials shall be stored in an orderly way and shall be arranged to allow children to select, remove, and replace the materials either independently or with assistance.

(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) Provision for individual storage of children's clothing and personal belongings shall be available.

(h) Storage space for play materials and equipment used by the children shall be made available.

(i) Sleeping materials and equipment for children less than one year of age shall meet the safe sleep requirements in subchapter 11. 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 §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-28 Transition to a new facility or school setting.

(a) The provider shall assist the child in making the transition from the child care setting to a new child care, a kindergarten, or a school setting.

(b) The provider shall cooperate with parents, guardians, or kindergarten school staff when information is requested which may assist a child to adjust to a new environment, as allowed by section 17-891.2-16 [Eff _____] (Auth: HRS §346-172)

(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833

§§17-891.2-29 to 17-891.2-34 (Reserved)

SUBCHAPTER 4

STAFFING REQUIREMENTS

§17-891.2-35 Staff training, experience, and personal qualifications. (a) Each caregiver shall be qualified through training, experience, and personal qualities for the age group with which the person works.

(b) All providers other than volunteers assisting providers shall be at least eighteen years old.

(c) Written references from two of the following categories of persons shall be submitted to the department with an application:

- (1) A neighbor or personal friend;
- (2) A person in a professional capacity such as a teacher, doctor, minister, or social worker;
- (3) The parent of any child who has previously been in the provider's care, if applicable.

(d) 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.

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

(f) 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 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 shall complete at least sixteen hours of department-approved training annually in at least two of the topic areas in subsection (g).
- (2) Substitutes shall complete at least ten hours of department-approved training in at least two of the topic areas in subsection (g).
- (3) Volunteers who serve ten hours or more a week shall complete at least eight hours of department-approved training annually in at least two of the topics areas in subsection (g).
- (4) When an individual does not meet the requirements in subsection (f) or 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 section 17-891.2-36(d).

(g) 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, 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) Prevention of child maltreatment and abuse;
- (10) Pediatric first aid and child cardiopulmonary resuscitation;
- (11) Physical environment;
- (12) Health and safety;
- (13) Child care business or program management;
or
- (14) Community resources; and
- (15) Safe sleep if permitted to care for children less than 1 year of age.

(h) 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/neglect history, or adult abuse history that may pose a risk to children 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. [Eff _____]
(Auth: HRS §346-172, 346-154) (Imp: HRS §346-154; 42 U.S.C. §§2002, 2005, 5751,

9833)

§17-891.2-36 Staff-child ratio. (a) A family child care home shall provide care for no more than six children at the same time during any part of a twenty-four hour day. The provider's children that are six years of age or older are not included in this total.

(b) No more than two children under eighteen months of age shall be permitted in the family child care home at the same time. Should there be additional adult help in the home, there may be up to four children under eighteen months of age, and parents shall be provided with the names of the additional adults who help.

(c) Restrictions as to the number of children permitted shall be made under the following conditions:

- (1) Space is unusually limited;
- (2) Provider has personal, physical, or psychological limitations;
- (3) There is an unusually wide range of ages of the children;
- (4) There are children with special needs requiring unusual amounts of special care;
- or
- (5) Provider is dually licensed as a foster home.

(d) When a substitute is called during an emergency or other time when the regular provider is unable to provide care, the name, address, and telephone number of the substitute shall be provided to the department and parent or guardian and meet the following conditions:

- (1) A substitute shall meet the requirements in section 17-891.2-35.
- (2) When substitute care is provided, except during an emergency, parents or guardians shall be notified at least ten days prior to the use of a substitute. [Eff]
(Auth: HRS §346-172) (Imp: HRS §§346-

151, 346-154, 346-172; 42 U.S.C. §§2002, 2005, 9833)

§§17-891.2-37 to 891.2-39 (Reserved)

SUBCHAPTER 5

HEALTH STANDARDS FOR CHILDREN

§17-891.2-40 Health consultation provisions.

The facility shall make provision for health consultation to assist in developing health policies and keeping the policies current. The provider shall contact a local health resource for consultation in setting up and maintaining health standards.

[Eff] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-41 Evidence of child's health. (a)

The child care facility shall require and obtain from the parent or guardian of each child entering child care, a health record of the child which complies with the provisions of chapter 11-157, which relate to the immunization, physical examination, and chapter 11-164.2 for tuberculosis clearance which shall include the following:

- (1) Child's record of immunizations, or 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, or 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.

- (2) Evidence of tuberculosis clearance in accordance with chapter 11-164.2;
- (3) Evidence of the child's physical examination; and
- (4) The signature of a physician or health agency, signed within one year prior to admission.

(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) School aged children in before or after school care only, who satisfy health requirements for enrollment in school, are not required to furnish the material specified in subsection (a) above.

[Eff] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-42 Emergency care provisions. Every child care facility shall have the following provisions for emergency care of any child requiring treatment at a hospital or clinic away from the child care setting and for care of a child who becomes ill after arrival as follows:

- (1) The provider shall obtain the name of a physician or nearest hospital or clinic where care can be provided to the child;
- (2) The provider shall obtain written permission from the parents or guardians to allow the child to receive emergency care;
- (3) An adult shall accompany a 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;
- (4) An operating telephone that is available and is easily accessible to the provider to be used in case of an emergency;
 - (5) A first aid kit, emergency contact phone numbers, and medical treatment release forms on field trips; and
 - (6) A plan for accessing a telephone when not in the usual location where care is being provided. [Eff _____] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-43 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 provider who is trained in observation of symptoms of illness and with a current certificate in pediatric first aid at all times during the operational day when children are in care.
 - (2) A current 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 child 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 in the child care setting at all times.
- (b) The child CPR requirement shall be as follows:
- (1) There shall be at least one adult provider who is trained in child CPR and with a current certificate at all times during the operational day when children are in care.

- (2) A current certificate means a certificate that has not expired.
- (3) 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.
- (4) When the provider accepts infant children, the CPR course shall include training in infant CPR. [Eff] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-44 Admission of ill children. (a)

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

(b) When medication prescribed by a physician is administered at the facility:

- (1) Written permission from the child's parent or guardian to administer medication is on file;
- (2) The medication shall be kept in the original container bearing the prescription label which shows a current date, the physician's directions for use, and the child's name; and
- (3) Medication shall be kept out of the reach of the children and shall be returned to parents or guardians when no longer in use.

(c) When over the counter medication is recommended by the child or family's doctor, medication shall be administered at the child care facility as directed by the doctor or parent or guardian in writing.

(d) Both the provider and the parents or guardians shall be familiar with special policies of the facility relevant to ill children. Special

policies regarding illnesses are to be explained to the parent or guardian at the time of enrollment of the child.

(e) Physical arrangements that are clean and safe for children who become ill after arrival at the facility shall be available for the care of the child until the parents or guardians can be notified to provide alternative arrangements. [Eff] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-45 Admission of children with special needs.

(a) When children with special needs are admitted into a family child care home, the facility shall provide for the special needs of each child.

(b) The child with special needs shall be admitted only after consultation with the child's source of health care, the parent or guardian, and the provider occurs. The consultation shall include written recommendations from the health source to cover the child's special needs or to define the child's participation in the program.

(c) If the child's health care source considers it advisable, the provider shall receive training related to the nature of the child's condition and the child's potential for growth and development.

(d) Where the nature of the child's special needs or the number of children with special needs in the program necessitates added care, additional adults and equipment shall be available to cover these requirements.

(e) When additional adults assist with care for children with special needs as set out in subsection (d), the adults shall be subject to the same requirements for health and personal habits as the provider. [Eff] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-46 Daily nutritional needs. (a) To the extent possible, information provided by parents or guardians concerning the child's eating habits, food preferences, or special needs shall be considered in child care feeding schedules and menus. Children shall be encouraged but shall not be required to eat the food offered at the home.

(b) The home shall have access to nutritional information provided by a qualified nutritionist, dietitian, or other community resource approved by the state department of health.

(c) In a home providing meal service, the minimum meal components and food amounts required by the United States Department of Agriculture (USDA) child care food program shall be met. The home shall offer and provide the following combination of meals and snacks for children in care:

- (1) Two to four hours - - - one snack;
- (2) Four to eight hours - - - one snack
or breakfast
and lunch or
supper;
- (3) Eight hours or more - - - one snack
or breakfast
and lunch or
supper and
one additional
snack

(unless the eight hours or more extend into the evening hours when the child may be asleep);

- (4) When two snacks are required as in (3) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent; and
- (5) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, provider shall consult with the USDA).

(d) In a home where parents or guardians are allowed to provide food (i.e. sack lunches or snacks) the home, in addition to food the child brings, shall meet 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 child may be asleep);
- (3) When two snacks are required as in (2) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent; and
- (4) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, facilities shall consult with the USDA).

(e) Children shall not be offered foods to which they are allergic or, for religious reasons, cannot consume. Provisions shall be made to secure such information from the parent or guardian, and the parent or guardian of the child shall arrange for nutritious substitute foods.

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

(g) Infants shall be personally attended while being fed.

- (1) Infants unable to hold bottles shall have bottles held, not propped, by the caregiver.
- (2) Parents or guardians may assume full responsibility for the infants' diet.

(h) School aged children in before or after school care for two or more hours shall be offered a nutritious snack which may be provided by the facility or brought from home.

(i) Food shall not be used as a punishment or reward. [Eff _____] (Auth: HRS §346-172)
(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-47

§17-891.2-47 Drinking water provisions. Potable drinking water shall be available and accessible to all children. [Eff _____] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-48 Integration of mental health concepts. Mental health aspects of child development shall be integrated as follows:

- (1) The child and at least one parent, guardian, foster parent, or social worker shall be interviewed prior to a child's admission to a family child care home. The personal interview shall be conducted to secure pertinent information on the child's overall behavior and to acquaint the parent or guardian with the child care home's policies;
- (2) The provider shall regularly communicate with the parents or guardians about the child's development; and
- (3) The providers shall be aware of community resources, such as children's mental health teams in the state department of health, to help recognize and foster age appropriate behavioral development in children and shall share this information with the parents or guardians. [Eff _____] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§§17-891.2-49 to 17-891.2-54 (Reserved)

SUBCHAPTER 6

HEALTH STANDARDS FOR PROVIDER AND OTHERS IN THE HOME

§17-891.2-55 Providers' health standards.

Evidence that providers are free from health problems which would have a harmful effect on the children or which would interfere with effective functioning shall be maintained at the child care home as follows:

- (1) The results of employment physical examinations for the provider, 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 beginning family child care which indicates the provider and each staff member who works ten or more hours a week is in adequate physical, and if needed, mental health to care for children;
- (2) Any other person living in the home shall have a written report of a physical examination on file which was obtained within one year prior to the provider beginning child care or prior to the person's occupancy in the home. For school aged children, this requirement is fulfilled by meeting the rules for school attendance;
- (3) Written evidence that each adult in the home 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 shall be on file at the facility. The tests shall be repeated in compliance with chapter 11-164; and
- (4) Volunteers or other caregivers, paid or not, who provide direct child care shall be subject to the same requirements for health and personal habits as the provider.

[Eff _____] (Auth: HRS §346-172)
(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-56 Personal health habits of provider.

The personal health habits of all providers shall not interfere with the protection of the health of the children as follows:

- (1) The use of medications other than over-the-counter medication is permitted only when authorized by a physician;
- (2) Medication that impairs or limits the caregiver's ability to provide care shall not be consumed prior to or during the hours of child care;
- (3) All medication is stored out of the reach of children;
- (4) The provider shall inform parents or guardians if any member of the household smokes;
- (5) No smoking, including electronic smoking devices, is allowed on the premises during child care hours of operation, and personal nicotine products shall be stored out of reach of children; and
- (6) Alcoholic beverages shall be stored out of the reach of children and shall not be consumed during hours of the facility's child care operation. [Eff]
(Auth: HRS §346-172) (Imp: HRS §346-172;
42 U.S.C. §§2002, 2005,9833)

§§17-891.2-57 to 17-891.2-60 (Reserved)

SUBCHAPTER 7

SANITATION STANDARDS

§17-891.2-61 Handling of diapers and training

pants. The provider shall handle disposable and cloth diapers and cloth training underpants in the following manner:

- (1) Use a clean non-porous surface for changing diapers;
- (2) Use a space set aside for diapering that is separate from eating and food preparation areas;
- (3) 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 the children's reach.
- (4) Soiled cloth diapers and cloth training underpants, without emptying or rinsing the contents, shall be placed in a plastic bag and kept away from eating, food storage, and food preparation areas and out of the children's reach. The soiled cloth diapers or cloth training underpants shall be given to the child's parent or guardian.

[Eff _____] (Auth: HRS §346-172)
(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-62 Handwashing. (a) The provider and children shall wash hands with water and soap:

- (1) Before and after preparing food or beverages;
- (2) Before and after drinking, eating meals and snacks, handling food or feeding a child;
- (3) Before and after diapering;
- (4) After using the toilet or helping a child in toileting;
- (5) After handling bodily fluids or items containing bodily fluids;
- (6) After handling pets or animals; or
- (7) After outdoor play.

(b) Paper towels or separate cloth towels for each child shall be used for drying hands after handwashing. [Eff _____] (Auth: HRS §346-

§17-891.2-62

172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§§17-891.2-63 to 17-891.2-65 (Reserved)

SUBCHAPTER 8

ENVIRONMENTAL HEALTH STANDARDS

§17-891.2-66 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 be posted in a prominent place in the facility.

(b) The plan shall be practiced at regular intervals and include written procedures for:

- (1) Evacuation;
- (2) Relocation of the child care facility if 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 children, including infants and toddlers during an emergency;
- (8) Providing for the needs of children with disabilities and children with special needs during an emergency; and
- (9) Providing for the needs of children with chronic medical conditions during an emergency.

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

(d) The facility shall complete practice drills for the various emergency situations at regular intervals, or whenever a new procedure has been added. A log of the practice drills shall be maintained and made readily available for inspection by the department.

(e) Monthly fire drills shall be conducted and a written fire drill log shall be maintained and made readily available for inspection by the department.

(f) Emergency evacuation exits are kept clear of obstructions.

(g) Each child care facility shall install an underwriters laboratory listed fire warning device or system in each stairway or hall in the facility.

(h) There shall be an unexpired ABC multi-purpose type fire extinguisher in the child care area.

(i) Parents or guardians shall be informed of the disaster plans at the time of enrollment.

(j) The provider shall notify the department within one working day when an emergency resulted in the evacuation, relocation, shelter in place, and lock-down of the facility. [Eff]

(Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-67 Accidental injury precautions. The provider shall ensure that the child care program and premises minimize the risk of accidental injury in the following manner:

- (1) Ensuring that child care activities and premises do not expose children to situations which may be hazardous to the particular age or capacity of the child;
- (2) Helping increase the children's awareness of safety practices and accident hazards, as appropriate to their age and level of development and helping the children to learn how to avoid such hazards;
- (3) Ensuring that materials and equipment have not been recalled by the consumer product safety commission; and

- (4) Following procedures for infection control, to use in all situations to prevent the transmission of blood-borne germs that may be spread through blood and body fluids that might contain blood. [Eff]
(Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-68 Environmental hazards. The premises, both indoor and outdoor, in which a child care program is carried out shall be free of environmental hazards, shall be clean and comfortable, and shall provide for adequate space to meet the needs of the children as follows:

- (1) The provider shall control 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 children from getting into unsafe areas;
- (4) There shall be no open drainage ditches, wells, or holes into which children 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 children and shall be removed frequently enough to avoid creating a health hazard or nuisances;
- (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) Poisons, drugs, harmful chemicals, and other dangerous articles such as cleaning fluid, matches, and firearms, shall be kept in a safe location, out of reach of children;
- (9) Hazardous substances, including cleaning solutions, alcohol, and medication are inaccessible to children and in a closed

container which are clearly labeled.
Cleaning materials shall be stored in a secured area away from food preparation areas during food preparation times;

- (10) All rooms used for child care shall be lighted and ventilated;
- (11) 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 children;
- (12) Children shall be supervised when using hot water taps;
- (13) Stove top controls shall not be accessible to children;
- (14) Floor space shall be arranged to provide areas for active play, quiet rest, and individual activities;
- (15) Indoor and outdoor structures, equipment and toys shall be sturdily constructed and furnishings that have hazardous sharp edges, rust, and splinters shall not be accessible to children;
- (16) Lead based paint shall not be used on surfaces accessible to children;
- (17) Provision shall be made to eliminate the hazard of electrical outlets;
- (18) Electrical cords shall not cross pathways, and long cords are wrapped and secured;
- (19) Poisonous plants shall be kept out of the reach of children;
- (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 other business conflicts with child care hours and responsibilities, the lodging house, the boarding house, or other business shall not be operated on the premises of the child care home.
- (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; provided that a law enforcement officer, who is trained and certified to carry a firearm and ammunition, shall not be subject to this subsection for a law enforcement agency-issued firearm when the officer is acting in an official or authorized capacity.

[Eff] (Auth: HRS §346-172)
(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-69 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) If running water is not available, the water shall originate from a source approved by the health authority, shall be transported to the child care setting in clean, sanitized, covered containers, and shall be protected from contamination.

[Eff] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-70 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 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 carried 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 located in rooms separate from those used for cooking, sleeping, or eating;
 - (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 risers and 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 and sanitized after use;
 - (7) Lavatories shall be available and small children shall be assisted in washing to prevent accidental scalding;
 - (8) Safe, sturdy step stools shall be provided to allow the use of standard sized toilets and lavatories; and
 - (9) Children shall not share towels, toothbrushes, combs, and other necessary toilet articles. [Eff]
(Auth: HRS §346-172) (Imp: HRS §346-172;42 U.S.C. §§2002, 2005, 9833)

§17-891.2-71 Food preparation and protection.

Food preparation and protection shall be carried out in a kitchen with proper equipment and cleanup facilities required for the number of children in care as follows:

- (1) All food shall be protected from contamination during storage, preparation, and service;
- (2) All dishwashing shall be performed in a sanitary manner;
- (3) An adequate number of eating and drinking

- utensils shall be available for each child;
- (4) When single service utensils are used, the utensils shall be stored and handled in a sanitary manner and discarded after a single use;
 - (5) Cooking utensils used in food preparation and service shall be cleaned and stored in a sanitary manner; and
 - (5) Food protection policies shall comply with accepted practices of local sanitary codes in chapter 11-50, and shall be adapted to fit the needs of the program except as indicated in these rules.
- [Eff _____] (Auth: HRS §346-172)
(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-72 Cleaning of premises. (a) All necessary cleaning equipment shall be available on the premises and provisions shall be made for regular cleaning of the premises to protect the health of the children and provider.

(b) Cleaning materials shall be clearly labeled and stored in a secured area that is away from food preparation areas and is inaccessible to the children.

(c) There shall be a plan for regular cleaning of toys, table tops, furniture, and other similar equipment used by the children.

(d) Areas designated for eating and food preparation are cleaned before and after meals and snacks. [Eff _____] (Auth: HRS §346-172)
(Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-73 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 the provider, shall be on duty at all times when swimming activities or swimming pools or beaches are in use;
- (2) Wading pools less than twenty-four inches at the deepest part shall be exempt from the requirements of subsection (b)(1). However, children shall be personally attended by a responsible adult at all times and the wading pools shall be emptied immediately after each use; and
- (3) Legible safety rules for the use of all types of pools, excepting for wading pools, shall be posted in a conspicuous location and read and reviewed at regular intervals by the provider responsible for the care of the children. [Eff _____]
(Auth: HRS §346-172) (Imp: HRS §346-172;
42 U.S.C. §§2002, 2005, 9833)

§§17-891.2-74 to 17-891.2-79 (Reserved)

SUBCHAPTER 9

PHYSICAL FACILITY STANDARDS

§17-891.2-80 Building codes and space requirements. Child care facilities shall conform to the zoning, building, electrical, and plumbing codes of the county in which the facility is located, to state rules as may be applicable to the facility, and the following:

- (1) The department shall be notified of changes or renovations in the home;
- (2) Space requirements shall be as follows:
 - (A) For daytime care, there shall be a

- minimum of thirty-five square feet of indoor area per child, excluding bathrooms, closets, and hallways;
- (B) For nighttime care, each room used for sleeping purposes for children in care shall have a minimum of fifty square feet per child, excluding kitchen, bathroom, closets, hallways, and lanai area;
 - (C) For outdoor space, there shall be easy accessibility to adequate outdoor space and in all cases, a minimum of one hundred fifty square feet. For children twelve months or older there shall be a minimum of seventy-five square feet per child;
- (3) All parts of the building, building appurtenances, outdoor space, equipment, and all other parts of the facility shall be kept repaired, safe, and sanitary at all times; and
 - (4) There shall be written evidence that the condominium or townhome association allows the applicant to operate a family child care home. [Eff _____] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§§17-891.2-81 to 17-891.2-84 (Reserved)

SUBCHAPTER 10

PROGRAM MODIFICATIONS

§17-891.2-85 Program modifications for night care. A child care facility offering night care shall meet the requirements of this chapter in addition to

the following requirements:

- (1) In consultation with parents, special attention shall be given to provide for a transition into night care;
- (2) Toys for quiet activities shall be available;
- (3) Comfortable beds or cots, complete with bedding, and night clothes shall be available or supplied by the parents;
- (4) The provider shall be available to assist children during eating and pre-bedtime hours and during the morning period when dressing. During sleeping hours, the provider shall always be within hearing distance to provide for the needs of children and to respond to an emergency;
- (5) A child shall not sleep in a building detached from the main facility; and
- (6) Night care facilities shall include at least one shower, bathtub, or bathing facility for young children. [Eff]
(Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§17-891.2-86 Program modifications for demonstration projects. (a) A 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 child care 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 child care 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 "registered demonstration project";
- (2) Providers shall be able to show that at all times the demonstration project is in compliance with the child care 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 includes:
 - (A) Developments, findings, recommendations, and suggestions for further study; and
 - (B) Any proposed recommendations related to the demonstration project for changing or modifying child care rules with justification therefore.

(e) Proposed demonstration programs disapproved or discontinued by the department shall not be permitted any further use of the words "registered demonstration project" in the identifying title, logo, or material. [Eff _____] (Auth: HRS §346-172) (Imp: HRS §346-172; 42 U.S.C. §§2002, 2005, 9833)

§§17-891.2-87 to 17-891.2-89 (Reserved)

SUBCHAPTER 11

SAFE SLEEP

§17-891.2-90 Program requirements. (a) A child care facility shall have a written operation policy regarding safe sleep.

(b) All staff members 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)

§17-891.2-91 Sleep environment. (a) A child care facility shall use cribs and playpens that have not been recalled by the 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.

(c) A clean, tightly fitted crib sheet shall be used to cover the crib or playpen for children less

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than one year of age.

(d) Sleeping areas shall be well-ventilated.

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

2. The adoption of chapter 17-891.2, 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