Response to DHS “Draft 2 Revised Family Child Care Licensing Standards”

The Minnesota Department of Human Services (DHS) has released the "Draft 2 Revised Family Child Care Licensing Standards." Last year’s initial draft received widespread criticism. Both drafts have cost taxpayers millions of dollars. While we are grateful that DHS has incorporated many suggestions from MACCP and others into this new draft, it still imposes numerous unreasonable and subjective requirements that would be nearly impossible to implement in a family child care setting. These rules would create excessive documentation and time-consuming tasks on a typical day, significantly raising the costs for providers. Ultimately, these costs would be passed onto families, reducing the affordability of family child care for thousands of Minnesota’s families.

The proposed changes would transform loving family child care homes into sterile, institutionalized environments. The level of detail in this proposal is overly prescriptive and beyond the scope and intent of laws. It micromanages the schedules, activities, and equipment of each day. As self-employed small business owners, we have the right to run our programs in ways that work best for us and the families we serve. Beyond basic and reasonable licensing standards, decisions should be left to the discretion of the providers since we are not state employees.

DHS claims that these changes will ensure children’s health and safety; they won’t. However, they will ensure the catastrophic loss of thousands of wonderful licensed family child care providers and, in turn, the loss of tens of thousands of child care slots for Minnesota’s children. Minnesota has been grappling with a child care crisis since 2011, and we have consistently warned about it since then and offered many practical, no-cost solutions to address it. If DHS’s proposal passes, it would deal another devastating blow to Minnesota’s children, families, family child care providers, and economy. Families will lose the freedom to choose from more than 5,700 unique family child care programs that best fit their needs and expectations for their children’s care and education based on our homes, policies, and childcare philosophies.

DHS falsely asserts this will modernize Rule 9502, which they say hasn’t been updated since the 80’s, misleading people into believing it is an archaic document with regulations that aren’t protecting children. “Rule 2” HAS been revised many times when and where it’s been necessary, but the basics of child care and children’s health and safety haven’t changed significantly since the 80’s.

Though we believe this draft should be rejected in its entirety, we have carefully reviewed every line and have included our concerns, suggestions, and edits below. If you have any questions or would like more information, please contact us at info@MACCP.org.

* Blue highlights indicate items that MACCP shared concerns and suggestions about in the first draft that were edited and/or removed in the second draft.

Statute	Current Rule/Statute	Pages	Topic	MACCP Comments
245J.01		9	Definitions – Accessible to Children	We appreciate DHS accepting our suggestion to make this definition the "opposite" of accessible for clarity.
245J.01	245A.02	9	Definitions – Age Categories, Toddler	Thanks for fixing the starting age and including the 12-15-month group. We want clarification that the 12-30 months definition is only for specialized infant and toddler child care and not for all group family child care programs.
245J.01	245A.02	9	Definitions – Age Categories, School age	Thanks for accepting our suggestion to keep this language consistent with other definitions.
245J.01	9502.0395	9	Definitions – Behavior Guidance	Remove comma after "children." Remove the word "positive" because some people may mistakenly assume that using clear, consistent, and age-appropriate guidance isn't positive. This would make the language more objective and less likely to be misinterpreted.
245J.01		10	Definitions – Care	Insert commas before and after the clause: "but not limited to."
245J.01	9502.0315	10	Definitions – Child	We appreciate DHS' change to keep the wording for age groups consistent with "…or younger," as we suggested. Note that the definition in 245A.02 includes those up to age 18, so it would be worth clarifying that it doesn't apply to family child care settings.
245J.01		10	Definitions – Child care program	Remove reference to community-based child care so it reads, "…means family child care and group family child care."
245J.01		10	Definitions – Cleaning	The reference to "many" germs was less subjective than the second draft's change to "most" germs. It also might prevent the misinterpretation that cleaning quality would need to be measured (how would someone know if they eliminated more than half of the germs?). Please revert back to using "many."
245J.01		10	Definitions – Direct supervision	Remove this definition. It is inaccurate because direct supervision can be for just one child and not all children in care. Counting should not be included, and the wording should say "capable of intervening" to limit misinterpretations or impossible requirements (no one can prevent every possible incident, even if you are holding a child's hand). Moreover, the definition in the training section conflicts with this definition.
245J.01		10	Definitions – Disinfecting	This definition sounds like the definition for cleaning, except disinfecting does not use soap and water. This should be clarified.

245J.01	9502.0315	11	Definitions – Emergency replacement	Thanks for including our definition for emergency replacements, a definition that wasn't included in the first draft.
245J.01	9502.0315	11	Definitions – Family child care	This definition should clarify that "all children on the premises" doesn't include a family bringing in other siblings under their care while dropping off or picking up the child enrolled in the provider's care. We asked for this in the first draft, too.
245J.01	9502.0315	11	Definitions – Group family child care	This definition should clarify that "all children on the premises" doesn't include a family bringing in other siblings under their care while dropping off or picking up the child enrolled in the provider's care. We asked for this in the first draft, too.
245J.01	9502.0435; no current definition in statute	11	Definitions – Hazards	This definition is highly subjective. Who would determine if something could damage a child's mental health? Some children have anxiety about insects or spiders. Would taking the child outdoors to play be considered hazardous to licensing because the child might be afraid? We recommend removing this definition since hazardous materials are explained in the current rule and proposed statutes. Statutes cannot define every word contained within them.
245J.01	9502.0315; 245A.50	11	Definitions – Helper	Thanks for accepting our suggestion to change "license holder" to "adult caregiver" to take into account the possible usage of substitutes or other adult caregivers.
245J.01		11	Definitions – High hazard bodily fluid	We still think this should say "highly hazardous bodily fluid."
245J.01		11	Definitions – Inaccessible	We appreciate DHS making this definition consistent with that of "accessible," as we suggested.
245J.01		11	Definitions – Intermittent caregiver	We recommend changing the wording slightly to say, "…for a maximum cumulative total of 500 hours annually."
245J.01	9502.0365	11	Definitions – Licensed capacity	We still suggest adding the word "present" so that it reads: "When the program is located in a residence where the license holder lives, all children 10 years of age and younger present in the residence count towards the capacity of the program." Otherwise, a licensor may claim that all children who live there count in the capacity, regardless if they are on the property at the time. We also want protection for a provider's relative (spouse, significant other, or other related adult) who lives in the home to be able to take their child to another area of the home and, in doing so, reduce the provider's numbers and exempt that child from being restricted to licensed areas or activities if they aren't under the direct care of the

				provider anymore. For example, the family's garage may not be licensed, but a father should be able to take his daughter into it while the license holder is caring for the other children. This allows the license holder's family to spend quality time with their own children, just like parents "picking up" children from the child care.
245J.01		11	Definitions – Licensed child care space	We want to ensure the family child care provider's own children can go to an unlicensed space, such as their bedrooms.
245J.01	9502.0315	11	Definitions – Medication	We appreciate the removal of diapering products, sunscreens, hand sanitizer, lip balm, body lotion, and insect repellents from this definition. Remove the comma after "counter."
245J.01		12	Definitions – Pests	It would be better to make a less ambiguous definition because rabbits, squirrels, and deer might be considered pests by some (and they can carry fleas and ticks), but many others would disagree. Otherwise, we recommend removing this definition.
245J.01	9502.0435	12	Definitions – Pets	Thanks for using our suggested wording to clarify the animals would need to live at the program and have contact with children to fall under this definition. We hope this will protect providers' rights to have visits from animals like petting zoos, reptile shows, etc. and have farm animals living on their property.
245J.01		12	Definitions – Primary Provider	The definition of "provider" should also be included in definitions, as we noted in the first draft.
245J.01		12	Definitions – Program	We shared in the first draft that this definition seems to prevent adult family members from taking our own children to a different area of the home. The reference to community-based child care programs should be removed.
245J.01		12	Definitions – Radon testing	Since we support the removal of radon testing requirements from the draft, this definition should be removed, as well.
245J.01		13	Definitions – Redirection	There is no need to define everything in statute. Remove this definition because providers should not be micromanaged.
245J.01	245A.50	13	Definitions – Second Adult Caregiver	Thanks for accepting our suggestion to use the term "adult" across definitions for consistency and to prevent confusion.
245J.01	9502.0315	13	Definitions – Supervision	Subd. 6a: Thanks for accepting our suggestion and changing the definition back to say sight OR hearing and removing the exclusion of mechanical or electronic devices to assist with supervision (such as when a caregiver needs to use the bathroom without an entourage). However, we support the original language that says "capable of intervening" instead of "must intervene."

				Subd. 6b: The definition still prevents any mechanical or electronic device from being used to help schoolagers get the provider for assistance, if needed. A monitor is better than nothing, and school-age children are currently allowed to play in backyards or off-site alone as long as the provider is available for assistance. Keep the current language in Rule 2 about supervision. Subd. 6c: This is incredibly detailed and unnecessary; it should be removed. This is covered by common sense and a myriad of other definitions and requirements listed in this draft. Subd. 6f: Thanks for removing the sentence about children's needs and parental preferences.
245J.01	9502.0435; no current definition in statute	13	Definitions – Toxic & hazardous materials	Remove "even in small quantities" and "or capable." This is still subjective language and will likely have varying interpretations from licensor to licensor. This definition is different from the one on page 68.
245J.01	9502.0315	14	Definitions – Variance	Ensure that previous variances will still be honored and that the ability to grant variances still remains with the county agencies. County licensors have firsthand knowledge of each program, so variances should not be decided by DHS. Insert comma after "commissioner."
245J.02	9502.0325	15	Licensing of Facilities	Remove both references to community-based child care programs in this section.
245J.03	9502.0335	17	Licensing Process	Subd. 1a and 1b: Remove references to community-based child care programs. Subd. 1c and 1d: Remove references to private water supply and radon regulations. They're addressed in later chapters. Subd. 2: Shouldn't "rules" be removed since Rule 2 will be codified into law for family child care?
245J.03	9502.0335	17	Licensing process – Ineligibility factors	Subd. 4a: We are concerned about DHS being the group or individual that determines if something "may have a negative effect on the ability of the license holder to give care." "May" is very subjective. Who determines that something MAY have a negative effect on the ability to give care. No one should abuse anything, but

				this section could easily be used by DHS to exert control and claim someone's prescription drug used by many may affect their ability to give care. Revert to the previous wording about hours "children are in care" instead of the new "hours of operation" because once children leave for the day, the provider doesn't need to follow licensing regulations in his or her home (he/she can go shopping, leave cleaners on the counter, have knives accessible, etc.). Also, if someone had been drunk or under the influence of drugs during child care hours, how can DHS claim these changes are about children's health and safety when this section allows those providers to be licensed after 12 months of verified abstinence? As we requested last year, we want statistics from DHS about how often they have even had providers abuse drugs or alcohol, including how many were found unsubstantiated or unable to determine. Moreover, this section is so poorly worded that it will likely cause confusion. Subd. 4b: We oppose this language for the same reasons listed above: it's very subjective and can allow DHS to use the placement of a provider's child in foster care as an excuse to shut a provider down without good reason. Adding the words, "to the children in their program" after "to give care" could provide a little clarification, but this section should not be added. Subd. 4c: The agency is biased. Having a child placed in a residential facility in the last 12 months doesn't necessarily mean the provider did anything wrong or that it reflects on their ability to give care. This paragraph gives a lot of power to DHS instead of psychological or mental health professionals or an independent agency who are mandated reporters and would have reported any concerns about the parent/provider to the state. Again, the standard is the ability to give care to the children in their program. Sub. 4d: This also needs to be removed as it sounds discriminatory and would discourage inclusiveness. A child with special needs may need more attention than other children; would DHS say that

				poses a risk to the other children? What if a household member requires an oxygen tank to breathe? Will DHS argue that is a risk to children as well?
245J.03	9502.0335	18	Licensing Process – Variance	Subd. 4c & d: It cites Chapter 245A instead of 245J. Subd. 5: It also cites 245A instead of 245J.
245J.03	9502.0335	18-19	Licensing Process – Change in license terms	Subd. 7a.1: It should cite 245J.04. Subd. 7a.2: It should say “family child care program.” Subd. 7a.5 and 7a.6: Remove these since community-based child care should be under a different chapter, just like center-based care.
245J.03	9502.0335	19	Licensing Process – Access to Program	Subd. 9b: Keep language from the first draft that limits licensing’s access to adjoining land or buildings. Add: “in conjunction with the provision of child care and used by the children in care” to the end of the sentence. Subd. 9d: Thanks for accepting our suggestion to remove the language that gave the commissioner permission to view and duplicate all records and documents, regardless of their relevance to licensing.
245J.04	9502.0345	21	Agency Records	Note that this page is NOT included in the Draft 2 – Revisions Document.
245J.05	9502.0375	22	Reporting to Agency	Subd. 1: Does “immediately” mean reporting within 24 hours? It would be best to clarify this so it isn’t open to a wide range of interpretations. We asked for this in the first draft, too. Subd. 2b: DHS should not need to be informed about anyone moving out of our homes. Regardless, this proposal changes the notification from 30 days to only 10 days after someone moves out of a provider’s home. Subd. 2d: This change would require the provider to notify licensing immediately (again, this means different things to everyone) about any fire that requires the service of the fire department. They should only need to be notified if a fire occurred during child care hours. A small toaster fire after hours might make someone call the

				fire department, even though it wasn't necessary; that would have no bearing on someone's license and, therefore, should not need to be disclosed to DHS. If a provider has a serious fire, he or she isn't going to be thinking about much else, but they likely aren't planning to reopen soon. After a trauma like that, immediately reporting to licensing might be the last thing on their mind. It is bad enough that DHS is trying to micromanage everything we say, do, and provide during operating hours, but this and other sections are micromanaging our homes and time outside of child care operations. Subd. 2e: We shared concerns about this in the last draft. This paragraph would require providers to immediately notify licensing after any serious injury, and they've now added "or hospitalization of a child in care." Current DHS policy says providers need to report a serious injury within 24 hours. DHS also did not include any statement about a reportable injury occurring during child care hours or while under the care of a provider. They have also expanded the definition of "serious injury" to say simply being assessed by a medical professional meets the standard. If a parent or guardian chooses to take a child to the doctor for a scrape or pain that may or may not exist, that would constitute a serious injury by this new definition. That's ludicrous! Moreover, the addition of any hospitalization of a child in care is none of their business and infringes on family privacy, especially if it has nothing to do with child care. The wording should say: "require assessment or treatment." Despite their claims that these proposed changes are about children's health and safety, they omitted "or death of a child." This is a serious omission by DHS. The language should read "…or death of a child during child care hours while in the child care program." Subd. 2f: This should read: "about any animal bite…" This additional language is redundant, though, because it's covered under the "Pets" section. We recommend moving that language to this section or moving some of the reporting info under that section to this one.

245J.06	9502.0405	23	Admissions; License Holder Records; Reporting	Subd. 1: Thanks for deleting all of the language, as we suggested. The new language should say, “Prior to admission and when necessary…” instead of “ongoing” to prevent another asinine, ambiguous requirement and make it grammatically correct. Subd. 3: This language would allow the parents of children enrolled in our care to come into our program at any time while their child is in care, even if they just want to observe or have difficulty separating from their child. This is not in the best interests of the children in care. Providers are already required to allow parents access to their child, so they do not need additional access to our program. This violates the rights of the provider and the other children in their care. Subd. 4: Remove this language. First, attendance records didn’t prevent the millions of dollars in CCAP fraud in our state in just the last 5 years. This would create extra time and paperwork for providers and extra hassle for families. Many providers have their children outside during pickup times. Providers don’t want to carry a clipboard around with an attendance sheet for parents, and they don’t want to complete anything when they are trying to rush out the door. If providers want to do this, it’s their choice, and it can be a benefit to them, but the state shouldn’t dictate this. We don’t oppose it being required for those accepting CCAP and Early Learning Scholarships as the state currently requires.
245J.06	9502.0405	23	Admissions; License Holder Records; Reporting – License holder policies	This section addresses all the policies DHS wants us to include in our policies we provide to families and to licensing. The additions they want will add at least 10 more pages to each provider’s policies. Policies aren’t meant to include exhaustive lists of licensing requirements. They are meant to be the policies providers choose related to their program, and they are between them and the families enrolled in their care. Remove all new language and keep existing language in Rule 2. Subd. 5a: This cites 245A instead of 245J. Subd. 5b: Remove the word “written” as providers should be able to share their policies in written or electronic format, especially since

				the DHS requirements would add more costs for printing many pages of policies. Subd. 5b.3: Change the language to: “All fees, including payment schedule.” Remove all other language as the list is cumbersome and not exhaustive. We suggested this for the first draft, too. Subd. 5b.11: Remove requirements to have a policy about the notification to parents about exposure to a reportable disease. Providers are required to do this, so it should not need to be listed in the providers’ policies. Subd. 5b.12: We appreciate DHS’ removal of language that would allow school-age children to carry their own medications without any limitations. However, providers should be allowed to make the decision about some, such as inhalers, with parental permission.
245J.06	9502.0405	24-25	Admissions; License Holder Records; Reporting – License holder policies	Subd. 5b.17: Remove reference to expulsion since “termination of child care” covers it, and family child care doesn’t use the term “expulsion.” Subd. 5b.18 & 19: “…, if applicable” should be added to the end of both helper and substitute sentences because many providers don’t use them. Subd. 5b. 20: We aren’t required to have a specific plan for an emergency REPLACEMENT (wrong term used here), so remove this new language. Subd. 5b.21: Thanks for accepting our suggestion to remove the 14-day notification prior to the introduction of a new pet in the program. Providers don’t take the decision to bring a pet into their lives lightly. Subd. 5b22: Remove this language because providers are already required to notify parents of a child whose skin is broken by an animal bite or scratch.

				Subd. 5b.23: Remove this language because providers are already required to notify about a child who is bitten by an animal. The language is also poorly written and unclear. Subd. 5b.24: Thanks for removing "caregiver education" from this section, as we requested, but we still think the whole section should be removed. This would require a written policy about screen time. Any policy about screen time is between providers and parents and should not be required by law. Subd. 5b.25: Remove this whole section. This would require providers to have a policy about photo or video sharing. This isn't applicable to every provider. It would also require photos and videos to be shared with the commissioner upon request, regardless of parental permissions. They are a benefit for the provider and families in care and have nothing to do with licensing unless the provider and parents agree to share them. Subd. 5b.26: Remove this section that requires a policy about social media posting or business communications. Social media isn't used by every provider, and limiting where providers can share info is not the right of DHS. We can post about our openings, activities, etc. anywhere we choose to do so, and we can post about the children in care with a parent's/guardian's permission.
245J.06	9502.0405	25	Admissions; License Holder Records; Reporting – License holder policies	Subd. 5b.27: Thanks for removing the requirement for providers to share a copy of their liability insurance coverage info. However, this section should be removed because it's already covered by the Admissions and Arrangements Form. Subd. 5b.28: Thanks for accepting our suggestion to limit third-hand smoke exposure in vehicles used by the child care program. Subd. 5b.29: Keep current Rule 2 language as it already prohibits us from abusing or being under the influence of anything that affects our ability to care for children. Remove new language. Subd. 5b.30: This language about parental access to their children is already required by current and proposed language on page 23. Remove it.

				Subd. 5b.: Thanks for removing the language about video surveillance, as we suggested. Subd 5b.31: Keep current Rule 2 language and remove all proposed language. Providers already need to follow laws about the storage of firearms and ammunition being locked, separate from each other, and inaccessible by children. MACCP would like to see statistics about any incidents with firearms in a licensed family child care program.
245J.06	9502.0405	25	Admissions; License Holder Records; Reporting – Records for each child	Subd. 6: Remove "reviewed at least annually by the parent and" because parents are already required to notify us about any changes to the information they provide at enrollment. Subd. 6a.: Although the info was removed from the second draft, we want to ensure that DHS does not include all the ridiculous info from the first draft on the Admissions and Arrangements Form. Subd. 6b: Thanks for accepting our suggestion and removing this information that would micromanage child care providers and require us to follow everything parents requested. Subd. 6f: Remove the last sentence requiring annual review of the pickup authorization information. Providers already update it as needed.
245J.07	9502.0365 9502.0367	27	Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions, and Supervision of License Holder's Own Child	Subd. 1a: This sounds like providers would be over their capacity any time a sibling comes in with their parent (and stays under their supervision) to drop off the child enrolled in their care. It should be clarified to say that their capacity must include all children present in the program who are under their care at any one time during child care hours. Strike the last sentence. Subd. 6b: Remove this language because it's offensive and is common sense in our profession. Of course, we are accountable for children's care and have knowledge of their needs. The sentence about children's needs and parental preferences can be an oxymoron because some parental preferences can be quite detrimental to the children and conflict with licensing requirements,

				like saying they shouldn't nap, even at 2 years old, or saying an infant should only drink 6 ounces of milk per day. Subd. 6c: This also says that all caregivers must be awake while caring for children. This doesn't take into account that sometimes another adult isn't needed due to the number of children in care at the time, so the second adult caregiver or helper could technically nap if needed, as long as they were within licensing ratios. The main issue is that there is no exception for providers who provide 24-hour/overnight care. If all the children are sleeping at night, the provider should be able to sleep; this is currently allowed by Rule 2. Subd. 6d: Remove reference to community-based care.
245J.07	9502.0365 9502.0367	28-30	Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions, and Supervision of License Holder's Own Child	Subd. 7 a, b, and c: These should read "Children Younger than School Age" instead of "Under School Age." The columns about infant and toddler restrictions should also use "younger than" instead of "under." Subd. 6b: Under the Specialized Infant and Toddler Family Child Care License, we appreciate the additional B3 license that increased capacity beyond those of a D license. We propose adding a B4 license that would allow 1 adult a capacity of 8 children, with no more than 6 children younger than school age, a maximum of 2 infants, and no more than four children younger than 2 years old (or "infants and toddlers" under the definition for this type of license if that is what DHS would prefer in order to allow this). This would significantly help families who need infant and toddler care while encouraging providers to continue in this profession. Some counties are already granting this variance now. Subd. 6c: We appreciate the increased capacity of a C3 license to allow 18 children. However, the number of children younger than school age did not increase beyond 10. This really doesn't help C3 providers. We recommend allowing 14 younger than school age in a C3, or add a C4 license to allow 18 children with no more than 16 younger than school age, no more than 3 infants and toddlers, and no more than 1 infant.

				Subd. 7: Thanks for accepting our suggestion to state the allowance for a C2 provider to operate as a C2 or C1 program on the days when the ratios allow them to operate at a lower capacity. Sub. 9: We are OK with these new requirements for B3 and our proposed B4 and C3 and our proposed C4 only if the “under school age” number is increased. Otherwise, this would force current C3 providers to meet these additional requirements without benefit to them. We want clarification/better wording to allow providers to choose trainings within any of these 3 areas (change it to say, “Child development, and/or”)? Correction orders should not count as “a licensing action; we want clarification that they don’t.”
245J.07	9502.0365 245A.149	30	Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions, and Supervision of License Holder’s Own Child	Subd. 10a.2: Remove the limit of a designated caregiver, helper, or substitute for the licensed program. This would allow spouses, significant others, etc. who may occasionally help in the program, but aren’t at that moment, to take their own child or relative on or off the premises with the license holder’s permission. Otherwise, it really infringes on parental and familial rights. Subd.10c & d: Add an explicit exception for the parent who isn’t the caregiver at that time to take their own child to an unlicensed area of the home. Subd. 10f: We are concerned that this new language would be misinterpreted; the caregiver’s actions in regard to their own child may affect the other children, but the issue would be if it negatively affected them. Moreover, if another child whines because he or she didn’t get to go out to eat like the provider’s child did or isn’t able to nap in a bedroom, would licensing say it is affecting the other children. We understand behavior guidance is the area of most concern here. Maybe DHS could put caveats on this or remove this sentence.
245J.08	9502.0355	31	Caregiver Qualifications – Physical and Behavioral Health	Subd. 2c: Remove this paragraph. DHS has added “mentally capable” to the current requirement of being physically able to care for children. Who determines this? Of course, we don’t want mentally unstable people caring for children, but this is highly subjective. We want statistics about how often anything related to physical or behavioral health of a family child care provider (or their

				helpers) has come up because this new section can compel us to provide proof of our physical or behavioral health on their form. If we challenge DHS on things, they could put us on their list and falsely accuse us/question our health without justification. Would providers be blind-sided and forced to close at the last-minute? Proof of physical and mental health signed by professionals at initial licensure should be sufficient Licensed medical and mental health professionals are mandated reporters who would report concerns about a provider to licensing without DHS changing this language.
245J.08	9502.0355	31	Additional group family child care requirements	Subd. 3a & 3b: This would require 520 hours of experience for someone to apply for group family child care licensure. However, setting it at 500 seems easier for everyone to remember. Sudd. 3b.2: This should be removed as a way to avoid the one-year of licensed family child care experience required before being licensed as a group family child care because being a licensed practical nurse or registered nurse is nothing like working in a licensed family child care home. It doesn't provide them with the experience that comes from working in child care settings, especially if they didn't work in pediatrics. Add the word "or" after 3b to make it clear that it's a, b, or c that is required.
245J.09	245A.53	33	Substitute Caregivers and Replacements	Change "Replacements" to "Emergency Replacements." Subd. 2c: It should say: "The program must close for the day…"
245J.07	245A.50	34-36	Applicant, Primary Provider of Care, and Second Adult Caregiver Training Requirements	Subd. 1b: The wording in this section is awkward. Perhaps it should say: "…professionals on the provider's learning record on the Develop data system, including:" Subd. 1c.2: Remove "from one location to another" since it's redundant (relocates). Subd. 1d.1ii: We recommend allowing those who have received a bachelor's or master's degree in early childhood education or child development within the last 10 years to be able to skip the annual child development/behavior guidance requirement.

				Subd. 1f.1: Keep the language from the first draft/existing language because there would be at least one adult in the program who was certified in pediatric first aid, and the caregiver would be under their continuous direct supervision. Subd. 1f.2: The language should be changed to say: “License holders and second adult caregivers must maintain record of the most recent training.” DHS’ proposed language would be one more thing they could use to be punitive as it doesn’t specify a time period to keep documentation of training and doesn’t clarify that electronic records would be allowed as proof of training. Subd. 1g.2: What group or organization would be required to approve individuals to provide CPR instruction? Subd. 1h.1: We are concerned that the removal of: “no more than two hours in length” regarding SUID/AHT training would allow DHS to extend the length of these courses.
245J.07	245A.50	36	Applicant, Primary Provider of Care, and Second Adult Caregiver Training Requirements	Subd. 1i.3: Under the training about child restraints in vehicles, DHS has added “and the driver” to our current requirements. The training is about safely installing and using car seats, booster seats, and seat belts with children. It has nothing to do with driving, so adding “drivers” is pointless. Only people who place children in the restraint need to take this class. Most providers don’t own a vehicle large enough to accommodate all children in care, so parents will volunteer to help transport their own children for field trips. The provider is the one who places all children into car seats in all vehicles. Requiring the training wouldn’t allow parents to be as involved in field trips with their children. Subd. 1i.2: We appreciate DHS’ acceptance of edit not to limit trainers of the B.E.S.T. training to only Develop-approved trainers. They just need to be certified and approved by DPS. Subd. 1j.3: Remove reference to “the Community-Based Program Plan.” Subd. 1l: We don’t oppose the requirement of a training on the reporting of suspected abuse, neglect, or maltreatment of children

				prior to licensure or caring for a child. However, it should only be required once, offered for free, and available online in a 1-hour format.
245J.10	245A.50	37-39	Applicant, Primary Provider of Care, and Second Adult Caregiver Training Requirements	Subd. 2b.1: Allow the two-hour active supervision training requirement to be completed every 5 years instead of every 2 years. Subd. 2c: Change “under school age” to “younger than school age.” Subd. 2d: Thanks to DHS for removing their proposal to limit providers to repeating a training more than once every 5 years, as we advocated. Subd. 2e: This language would require all trainings to be Develop-approved because it lists all the KCF content areas. Right now, county licensors can choose to count other classes towards licensing hours, like a class at a psychology conference, a class by Lakeshore Learning, an early childhood conference in another state, etc. This change would prevent it. The “KCF content area #” references should be removed to maintain the language currently in statute that only lists the topic descriptions. Subd. 2f: The language here is unclear if it includes all training topics in paragraph 2e or only in KCF VII.A and KCF VII.B. Providers who are approved trainers in Develop should be able to count each hour of training they present, not including a repeat of the same class in the same calendar year, towards their licensing requirements. Other professions give 50-100% credit for every class they present that’s related to their profession. Family child care providers should be given the same amount of credit. Trainers are required to put many hours of research and preparation into developing a training, in addition to presenting it, and should be given credit for those hours. Any DHS-developed training requirement that they present should also count towards the training requirement.

				Subd. 2h.: Remove the first sentence that limits a training to cover only one training requirement because some trainings are longer than 2 hours and cover multiple content areas.
245J.10	245A.50	39-40	Applicant, Primary Provider of Care, and Second Adult Caregiver Training Requirements	Subd. 3a.: Remove "certification" regarding pediatric CPR because taking the class should be the goal; the card isn't necessary for licensing. Change sentence to say "License holders and second adult caregivers must maintain record of the most recent training." The rest of the language is already in rule/statute and is, therefore, redundant. DHS added clarification that CPR training is required every 2 years, something we noted that they omitted in the first draft. Subd. 3b.1: Keep the language from the first draft/existing language because there would be at least one adult in the program who was certified in pediatric first aid, and the caregiver would be under their continuous direct supervision. Subd. 3b.4: This should read: "License holders and second adult caregivers must maintain record of the most recent training." Providers shouldn't need to keep training records in perpetuity. Subd. 3d: Do not add the training requirement for drivers, as we explained above regarding page 36. Subd. 3d.2: We appreciate DHS' acceptance of edit not to limit trainers of the B.E.S.T. training to only Develop-approved trainers. They just need to be certified and approved by DPS. Subd. 3e: Requiring us to train ourselves and all caregivers about our policies and procedures is ridiculous. We should be allowed to review the policies with them before they begin working for us and update them with any changes. This new proposal says they need "training" within 10 days of the change and must document each training on site. This creates more cumbersome paperwork and requires more time. The language should be stricken in both. If 3e stays, it should be changed to read, "If there are changes to any of the policies and procedures, the primary provider of care and each second adult caregiver must review them."

245J.11	245A.50	41-44	Substitute and Intermittent Caregiver Training Requirements	Subd. 1d: Keep the language from the first draft/existing language because there would be at least one adult in the program who was certified in pediatric first aid, and the substitute or intermittent caregiver would be under their continuous direct supervision. Subd. 1d.2: Thanks to DHS for adding our suggested clarification that documentation of pediatric first aid training can be on the premises or available electronically. Subd. 1e.2: What group or organization would be required to approve individuals to provide CPR instruction? Subd. 1f: Note that the language is stricken, but DHS did not renumber the document. Keep the language from the first draft/existing language because there would be at least one adult in the program who was certified in pediatric CPR, and the caregiver would be under their continuous direct supervision Subd. 1g: This cites 245A.1425 instead of 245J. We recommend changing “under” to “younger than” regarding school age. Subd. 1g.1: We are concerned that the removal of: “no more than two hours in length” regarding SUID/AHT training would allow DHS to extend the length of these courses. Subd. 1h: Drivers should not need to take a class about child restraints. The person placing the children in the safety restraints in vehicles should be the only one required to take the training. Remove “and the driver” from the proposed language. Subd. 1i.3: Remove this line as it references “the community-based program plan.” This belongs in a different chapter of statutes. Subd. 1j: Do not require substitutes and intermittent caregivers to have training on our policies and procedures, especially since DHS is proposing to double their length with this new language. DHS also excluded the intermittent caregiver in this language. If this proposed change is accepted, the language should say, “If there are changes to any of the policies and procedures, the license

				holder must review them with any substitutes and intermittent caregivers." This should not be a training, and there should be no need to document it. The 10-day timeline is extremely limiting because providers may not see the substitute or intermittent caregiver (their title gives a hint), and the provider may not have plans to use the substitute any time soon. Subd. 1k: We have the same comments for substitutes and intermittent caregivers about the class regarding the reporting of suspected abuse, neglect, or maltreatment. This information should be combined with the Basics of Family Child Care class for substitutes while keeping the class length the same or shorter. Subd. 2a: This new language that would require substitutes and intermittent caregivers to complete one hour of training each calendar year in the requirements of 245J.11. However, if they are active caregivers, they would already be required to take trainings each year. Therefore, this language is unnecessary. Subd. 3: Language should say: "Substitutes and intermittent caregivers must repeat pediatric CPR training every two years, and record of the most recent training must be maintained by the family child care provider." Remove the certification requirement, because taking the training is the important part; this would require providers to pay $25 or more to get a card from the ARC or AHA. Subd. 3d: Remove "and the driver" from the training requirement. Keep language that requires the training only for "the person placing the child or children in a passenger restraint." That language was kept for other caregiver positions. Subd. 3d.2: We appreciate DHS' acceptance of edit not to limit trainers of the B.E.S.T. training to only Develop-approved trainers. They just need to be certified and approved by DPS.

245J.12	245A.50	44-45	Helper Training Requirements	Subd. 1e: How long is the class about reporting abuse, neglect, or maltreatment? Again, we don't oppose this in concept, but we do want reasonable limits attached to the requirement. Subd. 2a: This language needs to clarify that helpers only need SUID training if infants are in care and AHT training if children younger than school age are in care.
245J.13	9502.0395	47-48	Behavior Guidance	Remove all new language. The proposed language micromanages our independent small businesses and homes down to every action. Maintain the language in current Rule 2. Subd. 4d: This would prevent providers from canceling an activity for a group due to the behavior of one or more children. If an activity would be dangerous due to the behavior of one or more children, the provider should be able to cancel. If children are hurting each other or being disrespectful, why would a provider seem to reward it with an ice cream or pizza party? Even a small situation like not being able to take the children outside because two children don't have all their winter gear might be considered a "behavior" by DHS. We must keep children safe and can't allow some inside and some outside; it's a lose-lose situation with this proposed language. Children would be rewarded for negative behaviors. Logical consequences would be very limited by this language, despite the fact that they are encouraged by most childhood experts. Remove this section. Subd. 4f: The language could prevent logical consequences for children "failing to complete an activity" such as cleaning up after themselves. DHS might use the word "punishment" to mean an unpreferred thing for a child, such as being quiet during naptime or not playing in the nap area. Remove this section. Subd. 4j: This new language limits the use of mechanical restraints as a means of discipline. We oppose mechanical restraints for discipline. However, DHS also says they can't be used for "convenience of caregivers," including swings, high chairs, infant carriers, walkers, or cribs. The use of these items by parents and

				providers is typically for convenience and the reason manufacturers produce them. When a provider is cooking lunch, they can't hold an infant while near a hot stove or removing items from the oven. It is convenient and prudent to place an infant in a secure piece of equipment to ensure their safety and the ability of the provider to care for the other children. When a provider actually gets the chance to use the bathroom, s/he can't hold an infant while doing so. Therefore, placing the infant in one of these devices is necessary to ensure his/her health and safety. Remove this section. Subd. 3m: This would prohibit "punishing or shaming a child for the actions of a parent" including failure to pay fees, provide appropriate clothing, failure to provide materials for an activity, or any conflict between the provider and parent. Providers don't want to shame or punish children. However, DHS might claim a child gets punished if we terminate their care due to the actions of their parents, such as not paying fees, consistently failing to provide basic necessities, or being disrespectful, swearing, or threatening to the provider ("conflict"). If a child doesn't have appropriate clothing to play outside in the winter, would DHS claim it's a punishment to have the child play away from the snow? This paragraph could be twisted to prevent providers from terminating care for very good reasons, including ones that protect the health, safety, and development of the other children in care. Remove this section. Subd. 4a: DHS' wording here would prohibit toddlers from being separated from the group as a means of behavior guidance. However, if a child is a threat to herself, himself, and/or others, separation may be the best choice in that situation. Current language specifies that infants must not be separated from the group as a means of behavior guidance. If toddlers have a tantrum or act in a way that threatens the safety of others, as well as themselves, separating them from the group to help them "take a break" is best practice. This is especially concerning for those with a "B" license because "toddlers" are up to age 30 months for them. Remove "and toddlers."

				Subd. 4b & e: DHS added very concerning language about the separation time or “time-out period,” a term not recommended by experts. This does not allow for the varying differences in situations and the unique amount of time each child may need to gain self-control in each situation. The words “and rejoin the group” need to be removed, at least, because children should be able to choose when they’re ready to return to the group as long as the provider thinks it is safe. Some children need more time to “cool off,” and family child care providers work to help children identify their feelings, providing coping tools, and help children take control of their feelings. Some children need only a few minutes, some need 10, and some need more...by choice Regardless, DHS’ language would be quite detrimental to children because it would prevent children from “cooling off” to gain self-control for no more than one minute per year of the child’s age. This goes against the recommendations of most early childhood and school age experts who suggest giving children opportunities to take control of their feelings by identifying them, discussing what happened with the caregiver, considering what could be done differently in the future, and choosing when they want to return to the activity or group. This strategy recognizes that every child is not the same and—instead—processes every situation differently. Due to all the behavior guidance trainings we’ve had to take, family child care providers know that this language would be detrimental to children by setting them up to have more mistaken behaviors. Remove both sections.
245J.14	9502.0425	49-50	Physical Space Requirements – Outdoor learning environment and play space	Subd. 2: Remove all proposed language. Subd. 2b (old): Thanks to DHS for removing the shade requirement, as we suggested. Subd. 2b (new): Remove all of this language because it’s repeated in other sections of the statute, doesn’t account for bussing for children coming to and from the program, and is subjective. Subd. 2c: The new language should be stricken as providers can’t prevent someone from walking by their yard and throwing a cigarette butt or walking their dog without cleaning up any feces. On trash days, debris can easily blow into a provider’s yard, and grass clippings or small twigs might be considered debris to one

				person while they might provide natural exploration opportunities for children. Current and proposed language should be related to "The play area and equipment actively in use…" Subd. 2d: The proposed language would require every provider to install a high fence with functioning gates, a continuous natural barrier, or a combination of the two. The costs for this will be impossible for most providers who don't already have one. These fence and gate requirements are moot because of current supervision requirements. If a provider doesn't use a fence or natural barrier, they would be required to create a supervision and safety plan. Remove this language that will definitely make many providers close their doors. Subd. 2e (old): Thanks for removing the requirement for constant visual inspections before and during outdoor play. Subd. 2f: This language actually specifies that providers must "take measures to protect children from the dangers of sun exposure and extreme heat." It's a good thing they warned us about the big, bad sun that provides children the best form of Vitamin D, helps their biorhythms, promotes healthy sleep, boosts their immune systems, and boosts their overall happiness. This is common sense, and—as professionals—we should be trusted to manage the typical day-to-day without being micromanaged or fed unfounded fear. There is a balance when it comes to sun exposure and heat; remove this sentence. Subd. 2g: This section requires equipment to meet the developmental needs of the age groups of children using the space. However, manufacturers rarely note how a piece of equipment meets children's developmental needs, and meeting children's developmental needs isn't something licensing can really measure. Remove new language. Subd. 2h: This section is concerning for multiple reasons. Almost every residential swing set has an open area for them to enter the "fort" after climbing up the ladder or rock wall, yet paragraph 7 requires protective barriers on all platforms 30" or higher. The

				language in paragraph 8 would also prohibit the installation of slides into a hill, despite that being a much safer way to use them while still maintaining a fun slope, because the manufacturer's guidelines don't address this. Tires, boats used as sandboxes, pitcher pumps (water pumps), music walls, and water walls are all examples of fun and developmentally appropriate outdoor activities that would be prohibited by this proposed language. Manufacturers might even recommend protective surfacing under their equipment, but a recommendation is not a requirement. Remove all new language. Subd. 2h (old): Thanks to DHS for removing the expensive and nearly impossible requirement for many providers to install protective surfacing under all elevated elements, which we opposed. Subd. 2i (old): Thanks to DHS for agreeing with us and removing the first draft language that required all bare soil to be covered or tested for lead by an EPA recognized laboratory.
245J.14	9502.0425	50	Physical Space Requirements – Portable Wading Pools	Subd. 4: "Wading pools" should be lowercase to keep consistency in the document. Subd. 4b: Put quotation marks around "Wading Pool Safety for Parents." We noted this in the first draft, too. Subd. 4d-e: Clarify that this relates to a wading pool with water.
245J.14	9502.0425	50-51	Physical Space Requirements – Swimming pools	Subd. 5 Update statute references in this section. Subd. 5a.5: Why is an annual swimming pool supervision course being added? We ask DHS to share the statistics with us about pools in family child care homes and about any injuries or deaths that have occurred. Subd. 5a.12: This should say, "…between 2 and 5 parts per million…" instead of spelling out the numbers.

245J.14	9502.0425	52	Physical Space Requirements – Water hazards	Subd. 6b: Remove proposed language. Do splash pads fall under this section? Subd. 6d: Remove the new language as this is redundant and doesn't define what is a body of water. They do imply that a water table is a body of water simply by excluding it from the requirements. Would they claim a bucket of water used for toy squirters or paintbrushes is a body of water? What about a bucket of bubbles?
245J.14	9502.0425	52	Physical Space Requirements – Water Play	Subd. 7: Make "play" lowercase to keep consistency. Keep language currently in rule. Clarify that it's about water retention and not about standing water. Many providers can have standing water after a heavy rain, but retaining water is very different. Change to, "Splash pads or sprinklers that retain water are considered wading pools…"
245J.14	9502.0425	53	Physical Space Requirements – Door to attached garage	Subd. 8: This section should be retitled since the references to the door have been removed.
245J.14	9502.0425	53	Physical Space Requirements – Ventilation, heating, and cooling systems	Subd. 9a, b, and c (old): Thanks for accepting our suggestion to remove the first draft language that would require annual HVAC inspection and maintenance by a licensed contractor and before initial licensure. Subd. 9c: The new language in the second draft limits accessibility of wood-burning stoves, space heaters, steam radiators, outdoor fire pits, etc. when they are in use and while they are warm to the touch. Subd. 9g: DHS has added subjective language saying that "the screens must be in good repair." What is the definition of "good repair?" Anyone with a cat or curious children may have screens that have a miniscule square of mesh that is frayed or open, but that doesn't necessarily bring biting insects in unless the holes are large. No one wants to allow mosquitoes or other insects into their homes, so this language is pointless. Remove it.

				Subd. 9h: Despite MACCP and many providers noting its ludicrousness, the second draft still states, “The source of harmful and unpleasant odors including urine and pet waste [clauses should be in commas] must be removed to the extent possible by removing the source of the odor or by removing odors through cleaning and ventilations.” Who determines what odors are unpleasant or harmful? Children are normally the source of the unpleasant odors in child care; that’s the reality of working with young children with typical bodily functions. Is DHS saying providers should remove a child from their homes any time the child has a dirty diaper or passes gas? This language is setting everyone up for failure, and it stinks as much as the “unpleasant odors” it is targeting. Remove all new language. Subd. 9i: We are glad that the DHS agreed with us and many others and removed their suggested prohibition of aerosol sprays, incense, moth crystals or moth balls, chemical air fresheners, or toilet deodorizer blocks, and all scent-enhanced products (candles, essential oils, and air fresheners)—even natural ones.
245J.14	9502.0425	53	Physical Space Requirements – Temperature	Subd. 10: We are glad that DHS agreed and reverted their proposed arbitrary temperature and relative humidity requirements to the current language requiring a minimum temperature of 62º.
245J.14	9502.0425	53-54	Physical Space Requirements – Sewage disposal	Subd. 11: We still suggest “Child care residences” should say “Family child care homes.” Subd. 11a.: In yet another proposal that seems to forget that we care for young children, the second draft says, “Toilets must be flushed thoroughly.” Children sometimes forget, but that’s OK, because another child will come along and loudly announce to everyone that someone forgot to flush and—with effort that apparently justifies a law to address it—flush it. The standard is having a working sewage disposal system. We are also concerned about the addition of: “Toilet training equipment must be emptied and cleaned after each use.” This conflicts with the DHS language in 245J.15 about cleaning toilets and such. Moreover, toilet seat adapters/smaller rings don't always get dirty after each use; it would be cumbersome and unnecessary for a provider to clean the toilet seat every time a child uses it. Removed the language added in this second draft.

245J.14	9502.0425	54	Physical Space Requirements – Construction, remodeling	DHS removed the word “dangerous” in this second draft when limiting children’s access to construction or remodeling areas within or around the residence. We want it added back. In fact, the word “hazardous” would be more appropriate. Would a licensor consider painting “remodeling,” even if children don’t have access to the paint? What about roofers or siders who are doing their work far away from children? What about replacing flooring, lighting fixtures, faucets, etc.? These are typical remodeling and construction projects that children are often around in their own homes, so their presence in a family child care home doesn’t make it any more hazardous. Supervision and basic licensing requirements already cover situations children shouldn’t be near without an exhaustive list.
245J.14	9502.0425	54	Physical Space Requirements – Electrical services	Subd. 14a.: We recommend changing “under” to “younger than.” Subd. 14c: It would be worth providing clarification that temporary extension cords, such as for holiday lights, are not considered a substitute for permanent wiring and are, therefore, allowed.
245J.14	9502.0425	54	Physical Space Requirements – Fire extinguisher	DHS proposes a requirement to move fire extinguishers from all “cooking areas" of our homes to “near required exit door.” They removed “cooking areas” in this second draft, making it more of a safety concern. What is the justification for the change? Most people keep theirs under the kitchen sink, conveniently located next to the stove. Putting it near the “required exit door” will move it further away from the stove and kitchen; thus, endangering more lives. The new language would also require documentation of annual service of fire extinguishers. We oppose additional requirements as the tag placed on each extinguisher when it’s serviced should be enough. Remove the new language.
245J.14	9502.0425	54	Physical Space Requirements – Infant and newborn sleeping space	Thanks for agreeing with our recommendation to move this section to keep safe sleep requirements together.
245J.14	9502.0425	54	Physical Space Requirements – Stairways	Subd. 18b. Thanks for accepting our suggestion to remove references to millimeters since we officially use inches for measurement.

245J.14	9502.0425	55	Physical Space Requirements – Locks and latches	Subd. 20a: We disagree with the change of “other space that [where] a child could be confined” to “other confined space” since a rabbit home could be a confined space, but a child wouldn’t necessarily fit in it. Revert to existing language or language in the first draft. Subd. 20d: Though we appreciate the removal of “door chimes,” as we suggested, we still disagree with the language that prohibits locks in place of supervision because the definition of supervision is sufficient. Remove this sentence.
245J.14	9502.0425	55	Physical Space Requirements – Tobacco products, vaping, drugs, and alcohol use prohibitions	Subd. 20a: Why was the wording “in a licensed family child care and licensed group family child care program” removed? It provided clarification that this is about where it occurs. The proposed language would prohibit providers from smoking a hundred miles away, even if they are closed for the day. Moreover, this section needs explanation about “operating hours,” or “operating hours” needs to be defined because the arrival of the first child and departure of the last child from our property is the end and beginning of freedom to be exempt from most licensing rules, such as having cleaners out, having the home cooler than 62º, having pets loose in the home, etc. What if a parent or someone the provider doesn’t know chooses to use one of these outside the provider’s home without the provider’s knowledge? Subd. 20b: Remove the comma after “alcohol” and add “or.” Provide clarification that this is “on the licensed property.” Illegal drugs should have their own section, because alcohol and recreational drugs that are allowed by law can be used after children are out of care for the day. This might be earlier than the operating hours or on a day the provider is typically open but is closed for a vacation day. Subd.20c: Clarify that this doesn’t apply to parents in our program. Subd. 20d: Change “on the premises” to “in the residence.”

245J.15	245A.	56	Cleaning, Sanitizing, and Disinfecting	Remove all new language in this statute. DHS should share any statistics they have about issues requiring more sanitizing and disinfecting in family child care programs. Providers strive to maintain clean and safe homes, but this language would require providers to spend additional hours each day on cleaning, disinfecting, and sanitizing. The over-sterilization and elimination of germs on everything is only going to weaken everyone's immune systems. We appreciate the removal of most of the language in this section from the first draft as it exceeded the standards for most food service establishments and was ridiculous. Subd. 1: Remove "including odor from pet waste" because this is subjective. All waste has an odor. Subd. 1d: Remove comma after "dryer." Subd. 2: Change "Toys must be cleaned and sanitized…" to allow cleaning and sanitizing or disinfecting. Subd. 2b: Change "high hazard" to "highly hazardous" or "high-risk." Subd. 2c: Change "Toys must be cleaned and sanitized…" to allow cleaning and sanitizing or disinfecting. We appreciate some of the new language for clarification here, but what constitutes "debris?" Dust isn't considered debris by any reasonable person, but this word leaves a lot of room for interpretation. Subd. 3: Removed the sanitizing requirement for surfaces and tools used for preparing or serving food. Washing well with soap and water is enough, and sanitizing chemicals are typically unsafe for consumption, even in small quantities. Subd. 4: Change "high hazard" to "highly hazardous" or "high-risk." Subd. 5: DHS should allow cleaning and disinfecting as an option for sleeping materials, too.

245J.15	245A.	56-57	Cleaning, Sanitizing, and Disinfecting	Subd. 6: This language about toilet training chairs isn't the same as in 245J.14. Is a built-in seat with a large and small ring going to be labeled a "toilet training seat" by licensing? If so, we oppose listing it because they aren't necessarily soiled after each use, and children of all ages use them. Many children use a stool to get up to the toilet and sink, but that doesn't mean it's a toilet training stool. Cleaning them after each use would be time-consuming and take the provider away from the direct view of the children too often. Subd. 8: Keep current language in rule/statute. This language is cumbersome and needs clarification, but it still creates issues. Subd. 8a: Clarify that "An adequate supply of clean diapers must be available for each child WHO WEARS DIAPERS." The proposed language would require them for every child in care. Subd. 8b: Remove all new language regarding cloth diapers. Subd. 8c: Remove the requirement that clothes be worn over diapers because emergency situations or extenuating circumstances might occur that would prevent this. Subd. 8f: Remove new language regarding changing tables and pads, especially the clause, "even if using a nonabsorbent covering that is discarded after each use." Hospitals and clinics use paper on their tables for each patient then discard it without requiring cleaning or sanitizing between every patient. If they can use this system when working with a myriad of diseases and germs, family child care providers can dispose of a nonabsorbent covering after each use without having to clean AND sanitize every time. Subd. 8h: Remove the requirement to dispose of diapers only in a covered diaper disposal receptacle in the diaper changing area or directly outside in a garbage can. Providers dispose of diapers in the best place possible at that time; it shouldn't matter to others. Subd. 8j: Keep current language regarding diapering area disinfection. This section would require providers to disinfect diaper changing areas, tables, and diaper pails (called "receptacle" in 8h) with bleach or disinfectant, but it doesn't specify the frequency.

245J.16	9502.0445	58-59	Environmental Health	Remove all new language and keep existing language in statute. Subd. 1: Remove all new language regarding water testing. It is unclear if b and c would apply to all providers or just those who get water from private wells or sources. If they apply to all providers, this requirement would create major issues for providers in areas where their municipal water supply isn't up to the MDH standards (are these the same as the new EPA standards?). Why would it be necessary to have a copy of their municipality's test results? However, the children in care are likely drinking that same water at their own homes. Requiring those providers to install expensive systems to clean the water, buy bottled water, use a water cooler, or close the program is not fair. The state is responsible for working with any municipality that is in violation. Subd. 2: Remove this new section about radon testing. Information about radon can continue to be presented through Develop-approved trainings and a "best practices" manual for providers. This section does not seem logical because it requires testing for everyone, even those with a radon mitigation system, to test every 5 years. Those with radon mitigation systems typically have meters on their systems that constantly show the radon levels, so testing isn't necessary. Eliminate the new requirement to document and keep the results of every radon test on file and available for review.
245J.17	9502.0415	60	Activities and Equipment – General Activities	Keep language in current rule and strike all new language in this chapter. Subd. 1a: Clarify that activities must include these age groups when children in these age groups are in care. Many providers don't have infants or school agers. Subd. 1a.1: Remove the word "daily" as there may be reasons for a provider not to take children out besides weather, such as icy conditions, a child not having appropriate winter gear, a planned indoor activity, etc. Remove the requirement to utilize weather advisory and air quality notifications from "local weather experts or a local or state authority" when determining if children can play outside. Providers use weather apps and other resources to make this determination without the need for DHS to micromanage.

				Would DHS add a documentation requirement every day the provider doesn't take children outside? Subd. 1a.4: We suggest "child-initiated" be changed to "child-directed." Subd. 1b: Thanks to DHS for removing the specifics about indoor gross motor play, changing the language to be inclusive of all caregivers who may assist in a family child care program.
245J.17	9502.0415	60	Activities and Equipment – Equipment	Subd. 2: Keep current language in Rule 2. Subd. 2.a: Change to: "The license holder must have equipment sufficient in quantity for the number and ages of children in care." Subd. 2b: Remove this language because you can't measure satisfaction of individual, developmental, and cultural needs. Subd. 2c (old): Thanks for accepting our suggestion to remove this language that limited many wonderful materials from being used that encourage children's creativity and exploration. Subd. 2c: Thanks for changing "program-made" to "homemade." Subd. 2e: This would require equipment to be used in accordance with the manufacturer's instructions. Many items are purchased without instructions; what if the provider doesn't have them? This language seems to prohibit the use of loose parts, a STEM concept that encourages creativity, boosts fine motor skills, hones engineering skills, increases math comprehension, and more. Remove the proposed language. Subd. 2f: Thanks for removing this redundant language.

245J.17	9502.0415	60-61	Activities and Equipment – Newborn or infant activities	Subd. 3: Keep current Rule 2 language. Subd. 3a.: Change to: “Newborns or infants must be held or fed sitting up for bottled feedings until the infant can hold his or her own bottle. A bottle cannot be propped up for a newborn or infant.” Subd. 3b: Remove all new language as it belongs in a resource manual for providers. Subd. 3c: Remove new language. The proposed language is redundant. Subd. 3d: Remove new language. Supervision requirements don’t allow newborns to be left alone, regardless. This language would also require providers to allow newborns and infants opportunities to sit, crawl, toddle, walk, and play indoors and outdoors, even though many of them can only play, and it isn’t always feasible or safe to allow the youngest babies to be as free as the older children when outdoors. Subd. 3e-i: The language is unnecessary; keep the current language in Rule 2. DHS should have written: “Provide activities for the newborn or infant that develop the child’s manipulative, fine and gross motor skills, self-awareness, and social-emotional skills.’ Subd. 3j: This section about tummy time explains the benefits of tummy time which, like many sections of this draft, does not belong in law.

245J.17	9502.0415	61	Activities and Equipment – Newborn or infant equipment	Subd. 4: Remove all of the proposed language. Clarify that this equipment is needed “if newborns and/or infants are in care.” Subd. 4a: Why would an infant seat or high chair be needed for newborns? Remove “newborns” from this section. Every infant doesn’t necessarily need or use an infant seat or high chair at the same time. Subd. 4b: Change “documentation” to “record” regarding crib inspections. The proposed language would require providers to share crib inspection reports with the commissioner and parents when requested. Parents don’t need this info; they don’t need documentation about every licensing requirement we must follow. It would be ideal to keep all language about sleeping materials and safe sleep in the same section. Keep language that’s currently in rule/statute. Subd. 4c-f: Clarify that these items and activities aren’t needed if an infant is not in care. Newborns wouldn’t be able to use some of these items, either. Thanks for editing the list of activities to be more reasonable, as we requested.
245J.17	9502.0415	61	Activities and Equipment – Toddler activities	Subd. 5: Keep current language in Rule 2. Subd. 5a-e: Change references to “the toddler” to “toddlers” and “child’s” to “children’s.” Subd. 5e: Change “skills” to “development.”
245J.17	9502.0415	61-62	Activities and Equipment – Toddler equipment	Subd. 6: Keep current language in Rule 2. Specify that equipment is required “if a toddler is in care.” Subd. 6a: The added language about cleaning sleeping equipment is already covered in 245J.15 and 245J.17. It’s redundant. Subd, 6b-e: Thanks for editing the list of equipment to be more reasonable, as we requested.

245J.17	9502.0415	62	Activities and Equipment – Preschooler activities	Subd. 7: Keep current language in Rule 2. This is all too detailed, tough to measure, and subjective. Subd. 7d: The language should be changed to say, “Give assistance in toileting, provide time to carry out self-help skills, and provide opportunity to be responsible for activities.”
245J.17	9502.0415	62	Activities and Equipment - Preschooler equipment	Subd. 8: Keep current language in Rule 2. Specify that this applies, “if a preschooler is in care.” Subd. 8a: The added language about cleaning sleeping equipment is already covered in the section about cleaning and disinfecting. Subd. 8b-h: Thanks for editing the list of equipment to be more reasonable, as we requested.
245J.17	9502.0415	62-63	Activities and Equipment – School-age activities and equipment	Subd. 9: Keep current language in Rule 2.
245J.17	9502.0415	63	Activities and Equipment – Bedding	Subd. 10: We want to ensure that this language allows beddings to be brought from home or provided by the child care provider. Subd. 10a: This or similar language is repeated throughout Chapter 245J. It would be best to keep it in one place and not repeat the same language multiple times. Should “beds” be added as an option, too? Provide an option to sanitize or disinfect because the proposed language only mentions sanitizing. Subd. 10b: Edit to say, “...must be in good condition, have no tears or holes, and be covered with individual bedding.”
245J.17	9502.0415	63	Activities and Equipment – Separation of personal articles	Subd. 11: Add a comma after “water bottles.”
245J.18	245A.146 245A.147 9502.0425	64	Infant Sleep and Crib Requirements	Subd. 1: Update reference from 245A to 245J. Subd. 2: Remove the section about commissioner inspection because this is a requirement for the commissioner, not providers.

				Subd. 3: Update reference to 245A to 245J. Subd. 4: Keep all current wording in existing statutes, but remove all references to “encouraging in-person checks.” This proposed language would make it tougher for families to find infant care. Subd. 4b: This would require providers to check on all newborns and infants every 20 minutes in person once they have been placed in a crib or playpen, regardless of their proximity to the infant. This is excessive and unnecessary. Are there statistics showing recent problems with sleeping infants in family child care? A good monitor helps providers check on sleeping babies more often. Under the proposed language, providers would be required to bring all children from infants-age 4 with them as they check on a sleeping infant due to supervision requirements. It would be impossible to expect the other children to be quiet, not to sneeze, etc. while checking on sleeping infants. Since the language requires checking on the infants once they are placed in the crib or playpen, the infants might have difficulty falling asleep. This language would have detrimental effects on infants and providers. Remove this language. Subd. 4c: In addition, providers would need to use monitors when infants are sleeping in a separate room out of their direct supervision. As we suggested before, change the proposed language to say, “Functioning audio or video monitors must be used when infants are sleeping away from the supervision of the provider. When in use, the monitors must meet the following conditions: be able to pick up the sounds of the infant being monitored, and the primary provider or caregiver must actively monitor the equipment at all times.” This would provide clarification and eliminate wordiness. Subd. 4d: Remove this language that prohibits the use of music, sound machines, or fans within three feet of a sleeping infant. Subd. 2a.5 (old): Thanks for removing the prohibition for using mirrors for supervision.

245J.19	9502.0435 245A.146 245A.51	65-67	Health Policies and Safety Requirements	Subd. 1a. Remove the comma after “cleaned.” Subd. 1c: Change “child” to “children.” Subd. 1d: If DHS has a definition for “eye protection” or a specific item in mind, like safety goggles, it would make more sense to just say it instead of stating one thing that doesn’t meet the requirement of “eye protection.” Subd. 2a: Remove the requirement to update the emergency preparedness plan annually. An update isn’t required unless there is new information; it should be updated as needed. Subd. 2a.8: Modify emergency preparedness plan language under 8 to say “accommodations for any infants and toddlers in care, if applicable” because some providers don’t have them in care and, therefore, shouldn’t need to include them in the emergency plan. Subd. 2b: Remove new language that would require “annual training” and documentation of annual training on the emergency preparedness plan. This just creates more asinine paperwork and wastes time. Subd. 2d: Remove this new language about completing the monthly fire drill log because the fire and storm drill requirements are listed in Subd. 3 in this section. It’s redundant. Subd. 3: Keep existing language in statute. Subd 3a: Define “sufficiently charged” with regards to a cell phone because the language is subjective. Subd. 3c: Remove the new requirement to take each child’s medical and parental contact info during emergency drills. Add “off-site activities” because DHS removed this health and safety measure. Suggested language: “The emergency phone numbers of each child’s parents, physician, and dentist, if applicable, must be readily available within the home and taken on off-site activities or emergency evacuations.” This should be 3b.

				Subd. 3d: Remove the new language requiring providers to listen to the Emergency Alert System or local alerting systems during severe storms and tornadoes. Change language to say “must stay updated for current emergency information and instructions.” Many providers stay updated using their phones for the most accurate info, so requiring them to use a different system may jeopardize the safety of the children. We support the allowance to use apps on smartphones for flashlights or portable radios/TVs. This should be 3c. Subd. 3e: DHS removed the requirement to have a designated place to meet outdoors, but a requirement to have a designated place to meet outside the child care home should be added to ensure children’s safety. This should be 3d. Subd. 3e: Remove new requirement to document on the monthly fire and storm drills log the name of the caregiver who conducted the drill and the length of time to evacuate “all children safely.” Most providers are the sole caregivers; there is no purpose in this requirement. Providers evacuate using different routes so the children learn them well and are prepared in case of emergency. Evacuation times will appear skewed depending on where the evacuation starts, progresses, and ends. This is just more unnecessary documentation. We also support removing the current (but fairly new) requirement to document the time of the drill. Subd. 4: Transportation requirements are repeated in a few sections; combine and condense into one section. They are not needed here unless they just refer to the section of this statute. Otherwise, any updates to language might miss the multiple references to this topic. Subd. 4d: Add comma after “state,” and change “motor vehicle s” (typo) to “driver’s” license.
245J.19	9502.0435 245A.146 245A.51	67	Health Policies and Safety Requirements	Remove all new language and keep existing language in Rule 2. Subd. 5: Pets are already discussed in other sections; keep the language together. We want to ensure the limits to “pets” do not affect farm animals; these provide wonderful opportunities for

				children to learn compassion, responsibility, gain scientific knowledge, and have fun. Subd. 5a: It is not licensing's job to ensure all pets are properly housed, cared for, licensed and inoculated. It's not their job to ensure compliance with local licensing or other requirements for pets. They are licensors of child care homes, not animals. Requiring rabies shots and tags is in current language and should remain, but the new language should be stricken. Subd. 5d. What is considered "interaction" with pets? If a child looks at or talks to an animal, that child is interacting with the animal. This is a ridiculous requirement. "Touch" or "pet" would be better choices. Remove this new language. Subd. 5e: If the purpose of this section is to ensure children's health and safety in food preparation, storage, or serving areas, then pet cages and enclosures being accessible to children is irrelevant and, therefore, the new language in the second draft should be removed. Add commas before and after "and including fish tanks." Subd. 5f: Remove all new language. There should be an allowance for covered pet litter boxes as long as they are inaccessible to infants and toddlers. Most children of any age aren't interested in them. Subd. 5g and 5h: Since DHS likes this subjective phrase so much, we suggest changing "immediately" in these sections to notification "as soon as practicable." The new language does not clarify the meaning of "immediately." The language in h is impossible because the provider can't notify licensing as an animal bite is occurring. The language from the first draft was better, but the current language should remain. Subd. 5i: Is this about animals housed at the family child care home? If so, it should be clarified, because the wording says the health board must be notified about any animal bite, yet the

				provider must try to confine the animal. That would be tough if it isn't the provider's animal. Immediately should also be defined. Subd. 6: Remove all new language regarding pest control. Pest control requirements are added in this proposal, including documentation of all steps to remove or exterminate any pests if found in the licensed space (this includes yards). Who would determine what is and isn't a pest? Rabbits, squirrels, chipmunks, raccoons, mice, rats, deer, etc. can all be considered pests to some and cute to others. Providers would also need to take steps to prevent attracting pests. Unfortunately, some people live in areas that have many of them, and there aren't always great options for prevention beyond keeping food put away. Providers would also be required to add a pest control policy to their existing policies. This also requires any pesticides used to be approved and registered with the EPA; this eliminates many effective natural and less toxic options for pest control and management. Subd. 7: Remove all new language. This second draft language becomes more ridiculous because it would require garbage from being inaccessible to preschoolers, as well as infants and toddlers. All garbage containers would need a lid on them to be considered inaccessible (no exception for them being locked anywhere). This is ridiculous. Would a flip top meet this requirement? Remove "preschoolers" and don't require indoor garbage to be emptied at least daily (first draft and Rule 2 language).
245J.19	9502.0435 245A.146 245A.51	68-69	Health and Safety Requirements	Subd. 5a: Remove "likely or capable" from "to cause injury…" because DHS could argue that almost anything is capable of causing injury. This definition differs from the one for toxic in 245J.01. Subd. 8c: Toys and equipment with chipped, cracked, or peeling parts must be removed from the program. Stickers peel from items often, but that doesn't make them unsafe. Keep the current language in Rule 2. Subd. 8d: Remove all new language. This would require monthly checks of the CPSC for lead warnings and recalls of all play equipment, toys, jewelry, imported vinyl mini-blinds, bibs,

				lunchboxes, and other food contact products. This will be very time-consuming as these items fall under different categories and are often 10+ years old. Providers may not know the name of a product, especially if they acquired it when it was used or bought it many years ago. Thanks to DHS for adding our suggested language about removing products found to contain lead. Subd. 6 (old): Thanks to DHS for listening and removing the section about the use and storage of art and science materials. Subd. 9: Remove the new language. The section about firearms would require bows, arrows, paintball guns, airsoft guns, Nerf guns, and any device that shoots "projectiles" to be unloaded and inaccessible to children. Toys for young children are very different from firearms. Providers would also be required to notify parents prior to admission about the presence of any of these items in their homes or if ownership changes. If a provider buys a Nerf bow for a child's birthday, they would be required to notify parents of their presence and after it changes ownership when the gift is given. Note that the language in 9c excludes guardians of a child in care. Subd. 10: Keep current language regarding accessibility of the first-aid kit. Put "medical tape" on a separate line from bandages. Thanks for granting our request to remove the requirement for a specific type of thermometer and a mouthpiece for giving CPR.
245J.19	9502.0435 245A.146 245A.51	69	Health and Safety Requirements – Care of sick children	Subd. 11: Remove all new language. DHS removed references to fever, vomiting, diarrhea, and rash for some reason. Schools still have these exclusions, so why was this removed for licensed family child care homes? These limits help ensure children's health and safety. Subd. 11c: These seem to limit or don't protect the rights of the family child care provider to have stronger illness policies than the state lists. This would be harmful to children and cause the spread of many diseases (coxsackie/HFM, lice, pink eye, strep, etc.). As small business owners, providers can set their illness policies to exceed state requirements and ensure the health and safety of the children in care, as well as their own families. Section c says that

				the commissioner's infectious disease guidelines (which can always change), "the healthcare provider," OR a child's ability to participate in routine activities without more staff supervision determine the exclusion period for reportable diseases. If that was the case, children would rarely be excluded because doctors frequently send children back with communicable diseases because "it's just a virus" or "the child doesn't have a fever." A fever is not the gauge for whether someone is contagious. Subd. 12a: Add comma after "practitioner." Subd. 12b: "Certified nurse practitioner" was accidentally left out. Subd. 12e: Thanks to DHS for accepting our suggestion and removing the language prohibiting the use of essential oils or herbal remedies without a script from a medical professional.
245J.20	9502.0445 245A.147	70-71	Food and Nutrition	Remove all new language. Subd. 1b: This section about feeding prohibits the use of any plastic in a microwave. What if a parent doesn't have and can't afford these items? Parents and providers can choose what they want. DHS could include information about safe materials and best practices in a resource manual. Subd. 1c: We are curious why unused formula would need to be inaccessible to children when they can have access to cow's milk, almond milk, or other food items. Subd. 3. Remove "in indoor and outdoor areas" because providers may have everyone go inside together for water breaks before going outside again. The requirement to offer it throughout the day helps ensure children's health. Subd 4a & b: The section about meals and snacks is not clear. Part-time providers who serve only 1 snack per day should not be held to the requirement to serve food from each food group. Even if a provider is not on the food program, the proposed changes would override parental and provider rights and require any meals served to include food from every food group except for cultural, religious,

				or medical reasons. Parents might have different reasons for wanting their child to eat something different on a certain day. That can be worked out between the provider and the parents; it doesn't need over-regulation by the state. Having children's names on any food brought from home is unnecessary unless more than one child is bringing their own food. Let providers and families figure out a system that works for them. There is no reason for this requirement. Subd. 4d: Remove new language. Every liquid shouldn't need children's first and last names. The first name should be sufficient for family child care providers. Subd. 3f: Remove new language requiring bottles to be sent home with the child each day because many providers wash and keep them in their homes. Subd. 5a: Remove this language because providers know what foods are perishable foods and how to safely store them. Subd. 5b: The new language does not make an exception for family-style meals as far as refrigerating liquids until they are served. Subd. 5c: Remove this language. Providers want to keep their appliances safe and clean, especially those used for food. Providers clean their appliances by choice. Who defines "clean?" This is micromanagement by DHS. Subd. 5f: This is unfair to allow exceptions to non-commercially prepared wild game only for providers who primarily serve Native American children. Otherwise, many could argue for exceptions to requirements based on the variety of cultures they serve. If it's allowed for one provider, it should be allowed for all. Allow it for everyone. This would be tough to regulate and gauge otherwise.

245J.21	9502.0405 245A.51	72	Children with Special Health Care Needs or Disabilities	Remove the entire chapter, except keep current wording in statute about allergies and nondiscrimination. This will make it tougher for children with special needs to find high quality care (or possibly any care). The intent might be to encourage inclusion, but this would ruin that. Providers would be scared to take children with special needs because of the huge increase in paperwork, time, and liability from these pages. Providers would be required to follow instructions from the parents, physician, or therapist, even if they are not based on best practices or would significantly change their program. How would providers be able to "demonstrate to the parents and the agency how the child's specific needs are being met?" This is subjective and not really measurable. The Americans with Disabilities Act (ADA) already covers most of this and protects people with special needs with clearer language.
245J.22	245A.148	73-76	Community-based Child Care	Remove this section as it belongs in a different statute than family child care.

Remove all references to community care programs and place them in a separate chapter of statutes because they are not family child care HOMES, even if most of their language will be the same. This will eliminate confusion and differentiate between family child care homes and other child care settings that are very different (appears on pages 4, 8, 9, 10, 12, 13, 15, 16, 18, 19, 21, 24, 27, 31, 36,43, 59, 73, 74, and 76).

In most cases throughout the proposed changes, references to "program" should keep their current reference to "provider" or "home."

If a new statute will be assigned to us, and since "245F" for "family child care" is already taken, we propose "245K" for "kids" and "kindness" be assigned to family child care.

Laws are not meant to be exhaustive lists of recommendations or "best practices." DHS should take this opportunity to compile a reference guide of "best practices" based on a wide variety of research-based and evidence-based input from licensed family child care providers and other early childhood and school-age experts.