



MACCP has highlighted this document to show DHS' proposed changes to existing rules and statutes. We want the entire draft to be thrown out. We implore the legislature to work with family child care providers in a transparent process to make commonsense reforms to our licensing standards while codifying rule into statute.



Draft Revised Family Child Care Licensing Standards (245J)

For Minnesota's child care community to review and provide feedback on

April 22, 2024h



For accessible formats of this information or assistance with additional equal access to human services, email us at DHS.info@state.mn.us, call 651-431-4945, or use your preferred relay service. ADA1 (2-18)

Printed with a minimum of 10 percent post-consumer material. Please recycle.

These draft licensing standards were developed by the Minnesota Department of Human Services (DHS) Licensing Division with substantial consultative support from the National Association for Regulatory Administration (NARA). The content included in these draft standards is at the discretion of the Minnesota DHS Licensing Division. Your feedback will help DHS to refine and improve these draft standards further.

Contents

Draft: Revised Family Child Care Licensing Standards..... 1

Contents 3

Introduction to Revised Licensing Standards 5

Comparison of new proposed standards with existing regulations..... 6

245J.01 Definitions 8

245J.02 Licensing of Facilities 13

245J.03 Community-based Child Care 14

245J.04 Licensing Process..... 17

245J.05 Agency Records 22

245J.06 Caregiver Qualifications 23

245J.07 License Holder and Second Adult Caregiver Training Requirements..... 25

245J.08 Substitute and Intermittent Caregiver Training Requirements 33

245J.09 Helper Training Requirements 38

245J.10 Substitute Caregivers and Replacements 40

245J.11 Supervision of Family Child Care License Holder’s Own Child 42

245J.12 Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions 43

245J.13 Reporting to Agency 46

245J.14 Behavior Guidance 47

245J.15 Admissions; License Holder Records; Reporting..... 50

245J.16 Children with Special Health Care Needs or Disabilities 55

245J.17 Activities and Equipment 57

245J.18 Physical Environment and Space Requirements..... 66

245J.19 Crib Safety 76

245J.20 Infant Sleep Supervision Requirements 77

245J.21 Health and Safety Requirements	78
245J.22 Cleaning, Sanitizing, and Disinfecting	81
245J.23 Health Policies	85
245J.24 Food and Nutrition	92
245J.25 Environmental Health	94

Introduction to Revised Licensing Standards

Message from the Deputy Inspector General, Alyssa Dotson

This document contains draft family child care licensing standards, which we are excited to share with providers and the public for feedback. It has been nearly forty years since Minnesota's Rule 9502 regulations were established for family child care programs, and the standards have remained largely unchanged. Much has changed in child care and in society since the 1980s, and these draft revised licensing standards aim to catch Minnesota up to those changes. You will notice new environmental health provisions around testing for radon and ensuring a safe water supply to protect the health of young children. You will also see significant revisions and reorganization to the behavior guidance, training requirements, and serving children with special health care needs or disabilities, to better align with how family child care programs operate in Minnesota today and the challenges they face. Lastly, you will notice that special family child care has a new name of "community-based child care" to better describe their program structure.

Our intent in releasing these draft licensing standards is to hear from providers, licensors, and the public on how they would be impacted by the changes to child care licensing that are proposed here. This is a draft, and the feedback you provide will be used to inform revisions to these licensing standards. What we learn from our child care community will allow us to create a stronger draft proposal for consideration in the 2025 legislative session. That work will be led by our Child Care Regulation Modernization team, which will be offering robust opportunities for you to weigh in on these draft standards in the coming months and will appear on the [project website](#) as well as communicated out via email. Public engagement will continue once the proposal is taken up by the 2025 Legislature, and the department is committed to implementing any new standards passed by the legislature in a deliberate and thoughtful way, to ensure providers and licensors are ready for the changes.

Minnesota's child care industry has faced unprecedented challenges and disruptions in the past several years, and early childhood educators and advocates have risen to those challenges with heroic efforts. I acknowledge these draft licensing standards present yet another change for our child care providers, but I also know that these changes are long overdue and represent an opportunity for an even stronger child care field in Minnesota. We know that other states have strengthened their protections for children's health and safety in recent decades, while Minnesota's child care regulations have largely stayed the same. These standards represent an opportunity to modernize Minnesota regulations in a way that improves the clarity of our regulations while strengthening health and safety for children.

Thank you for taking time to review and share your perspective on these draft standards. We look forward to working with you to improve child care licensing throughout Minnesota.

Sincerely,



Alyssa Dotson
Deputy Inspector General, Licensing Division
Department of Human Services, Office of Inspector General

Comparison of new proposed standards with existing regulations

Proposed statute number	Proposed statute title	Previous statute or rule number	Type of Revisions
245J.01	Definitions	9502.0315	Significant revisions
245J.02	Licensing of facilities	9502.0325	Minor revisions
245J.03	Community-based child care <i>previously known as “special family child care”</i>	245A.14 , Subd. 4	Minor revisions
245J.04	Licensing process	9502.0335	Minor revisions
245J.05	Agency records	9502.0345	Minor revisions
245J.06	Caregiver qualifications	9502.0355	Minor revisions
245J.07	License holder and second adult caregiver training requirements	245A.50	Reorganized
245J.08	Substitute and intermittent caregiver training requirements	245A.50	Reorganized
245J.09	Helper training requirements	245A.50	Reorganized
245J.10	Substitute caregivers and replacements	245A.53	Minor revisions
245J.11	Supervision of family child care license holder’s own child	245A.149	Minor revisions
245J.12	Licensed capacity, child and adult ratios, age distribution restrictions	9502.0365 and 9502.0367	Minor revisions
245J.13	Reporting to agency	9502.0375	Minor revisions
245J.14	Behavior guidance	9502.0395	Significant revisions

Proposed statute number	Proposed statute title	Previous statute or rule number	Type of Revisions
245J.15	Admissions; license holder records; reporting	9502.0405	Significant revisions
245J.16	Children with special health care needs or disabilities	9502.0405 Subpart 5	Significant revisions
245J.17	Activities and equipment	9502.0415	Significant revisions
245J.18	Physical environment and space requirements	9502.0425	Significant revisions
245J.19	Crib safety requirements	Refers to 245A.146	No changes
245J.20	Infant supervision requirements	245A.147	Significant revisions
245J.21	Health and safety requirements	245A.51	Significant revisions
245J.22	Cleaning, sanitizing, and disinfecting	245A.148	Significant revisions
245J.23	Sanitation and health	9502.0435	Significant revisions
245J.24	Food and nutrition	9502.0445	Minor revisions
245J.25	Environmental health	NA	New section

245J.01 Definitions

Subdivision 1. **Scope.** The terms used in this chapter have the meanings given in this section.

Subd. 2. **Accessible to Children.** "Accessible to children" means items, areas, or materials of a child care program that a child can reasonably reach, enter, use, or get to on their own.

Subd. 3. **Accredited.** "Accredited" means a postsecondary institution or technical college recognized and listed in The Database of Accredited Postsecondary Institutions and Programs maintained by the U.S. Department of Education. Accredited is the status of public recognition that a nationally recognized accrediting agency grants to an institution or educational program that meets the agency's established requirements. Federal Regulations, subtitle B, chapter VI, title 34, part 600.

Subd. 4. **Adult.** "Adult" means a person at least 18 years of age.

Subd. 5. **Agency.** "Agency" means the county or multicounty social or human service agency governed by the county board or multi county human services board.

Subd. 6. **Agent of a community health board.** "Agent of a community health board" as authorized under section 145A.04, means the designated representative of the state or community health board authorized to enforce state and local health codes.

Subd. 7. **Applicant.** "Applicant" means individual, individuals, or an organization seeking licensure of a family child care or a community-based child care program.

Subd. 8. **Building official.** "Building official" means the person appointed in accordance with section 326B.133, to administer the State Building Code, or the building official's authorized representative.

Subd. 10. **Caregiver.** "Caregiver" includes the license holder, second adult caregiver, intermittent caregiver, helper, substitute, or another adult providing care in the program. Adult caregivers are at least 18 years of age.

Subd. 11. **Child.** "Child" means a person 10 years of age or younger.

Subd. 12. **Child care.** "Child care" means the care of a child in a program outside the child's own home including the license holder's children of child care age who receive child care during child care hours.

Subd. 14. **Commissioner.** "Commissioner" means the Minnesota commissioner of the Department of Human Services or the commissioner's delegated representative.

Subd. 35. **Community-based Child Care Program.** "Community-based child care program" means nonresidential child care programs serving 14 or fewer children that are operating at a location other

than the residence of the license holder and includes locations as provided in section 245J.02, subdivision 3.

Subd. 15. **Department.** "Department" means the Minnesota Department of Human Services.

Subd. 16. **Family child care.** "Family child care" means licensed child care for no more than ten children at one time of which no more than six are under school age, including all children on the premises and the children of any caregiver when the children are under the care of the provider.

Subd. 17. **Family child care and group family child care child age classifications:** For the purposes of family child care and group family child care licensing under this statute, the following terms have the meanings given them in this subdivision.

(a) "Newborn" means a child between birth and six weeks old.

(b) "Infant" means a child who is at least six weeks old but less than 12 months old.

(c) "Toddler" means a child who is at least 16 months old but less than 24 months old, except that for purposes of specialized infant and toddler family and group family child care, "toddler" means a child who is at least 12 months old but less than 30 months old.

(d) "Preschooler" means a child who is at least 24 months old but less than 5 years of age.

(e) "School age" means a child who is at least 5 years of age, but less than 11 years of age.

Subd. 18. **Fire marshal.** "Fire marshal" means the person designated by section 299F.011 to administer and enforce the State Fire Code, or the fire marshal's authorized representative.

Subd. 19. **Group family child care.** "Group family child care" means care for no more than 14 children at any one time including all children on the premises and children of any caregiver when the children are under the care of the provider.

Subd. 20. **Helper.** "Helper" means a minor, 13 to 17 years of age, who assists the license holder with the care of children.

Subd. 21. **Inaccessible.** "Inaccessible" means not capable of being reached or utilized by a child without the aid of a caregiver.

Subd. 22. **Intermittent Caregiver.** "Intermittent Caregiver" means an adult who cares for children in the licensed program along with the license holder for a cumulative total of not more than 500 hours annually.

Subd. 23. **License holder.** "License holder" means an individual, organization or government entity that is legally responsible for the operation of the program and has been granted a license by the commissioner under this chapter and the rules of the commissioner.

Subd. 24. **Licensed capacity.** "Licensed capacity" means the total number of children 10 years of age or younger permitted at any one time in the **program**. The licensed capacity includes all children of any caregiver when the children are present in the **program**. **When the program is located in a residence where the license holder lives, then all children 10 years of age and younger in the residence count towards the capacity of the program.**

Subd. 25. **Medication.** "Medication" means any **substance or preparation which is used to prevent or treat a wound, injury, infection, or disease. This includes medication that is over the counter, or prescribed or recommended by a licensed physician, physician assistant, dentist, certified nurse practitioner physician, or advanced practice registered nurse, and permitted by the parent for administration or application. This term applies to substances taken internally or applied externally. This also includes but is not limited to diapering products, sunscreen lotions, hand sanitizer, lip balm, body lotion, and insect repellents.**

Subd. 26. **Minnesota State Fire Code.** "**Minnesota State Fire Code**" or "State Fire Code" means those codes and regulations adopted by the state fire marshal in accordance with section 299F.011 and contained in Minnesota Rules, chapter 7511.

Subd. 27. **Parent.** "Parent" means a person who has the legal responsibility for a child such as the child's mother, father, or legally appointed guardian.

Subd. 28. **Pets.** "Pets" means all animals housed within the residence **or that have contact with children.** Animals must be limited to dogs, cats, fish, guinea pigs, gerbils, rabbits, hamsters, rats, mice, and birds.

Subd. 29. **Physical intervention.** "Physical intervention" is the act of using bodily contact as a short-term immediate response to prevent children from incurring injury to themselves or injuring others.

Subd. 30. **Primary Provider.** "Primary provider" means an adult who is the leading caregiver for **children in the program.**

Subd. 31. **Program.** "Program" means the care of children outside the children's own home and provided for fewer than 24 hours a day and includes care and supervision of a license holder's own children when present during child care operations, including settings that are permitted by 245A.14.

Subd. 32. **Related.** "Related" means any of the following relationships by marriage, blood, or adoption: **spouse, a parent, a birth or adopted child or stepchild, a stepparent, a stepbrother, a stepsister, a niece, a nephew, an adoptive parent, a grandparent, a sibling, an aunt, an uncle, or a legal guardian.**

Subd. 33. **Regularly or regular basis.** "Regularly or regular basis" means a cumulative total of more than 30 days within any 12-month period.

Subd. 34. **Second Adult Caregiver.** "Second Adult Caregiver" means an adult who cares for children in the licensed program along with the license holder for a cumulative total of more than 500 hours annually.

Subd. 36. **State Building Code.** "State Building Code" means those codes and regulations adopted by the commissioner of administration in accordance with section 326B.107 and contained in Minnesota Rules, chapter 1300.

Subd. 37. **Substitute.** "Substitute" means an adult who is responsible for the duties of a license holder when the license holder is not present at the program for a cumulative total of not more than 500 hours annually.

Subd. 38. **Supervision.** For purposes of licensed family child care and group family child care;

(a) Caregivers must be within sight and hearing of a newborn at all times without the assistance of a mechanical or electronic device.

(b) Supervision means a caregiver being within sight or hearing of an infant, toddler, or preschooler at all times so that the caregiver is capable of intervening to protect the health and safety of the child.

(c) For a school age child, supervision means a caregiver being available for assistance and care without the assistance of a mechanical or electronic device so that the child's health and safety is protected.

(d) The caregiver has an awareness of and responsibility for the activity of each child and being near enough to respond and reach children immediately, including responding to the child's basic needs and protecting them from harm.

(e) Direct supervision means the caregiver positions themselves so that they can always observe all children and are watching, counting, and listening.

(f) The caregiver has knowledge of each child's needs and is accountable for their care at all times, including but not limited to, developmental and behavioral needs and parental preferences.

Subd. 39. **Toxic and hazardous materials.** "Toxic and hazardous materials" are substances, chemicals, chemical compounds, or similar items that even in small quantities are likely or capable to cause injury, illness, or death when ingested, inhaled, absorbed, or comes into contact with a child's skin, eyes, mouth, or mucous membranes.

Subd. 40. **Variance.** "Variance" means written permission by the commissioner for a license holder or applicant to depart from the provisions of a specified subdivision in this chapter and in accordance with the requirements in section 245A.04, subdivision 9.

245J.02 Licensing of Facilities

Subdivision 1. **Purpose.** The purpose of sections 245J.01 to 245J.25 is to establish procedures and standards for licensing family child care, group family child care, and community-based child care programs to ensure that minimum standards of care and service are given, and the protection, proper care, health, safety, and development of the children are assured.

Subd. 2. **Applicability.** Sections 245J.01 to 245J.25 as authorized by chapter 245A, govern the licensing of family child care programs, group family child care programs, and community-based child care programs.

Subd. 3. **Specialized infant and toddler family child care.** A group family child care program licensed as a class D specialized infant and toddler group family child care under section 245J.12, may operate as a class B specialized infant and toddler family child care program on days when only one caregiver is present.

245J.03 Community-based Child Care

(a) Nonresidential child care programs serving 14 or fewer children that are conducted at a location other than the license holder's own home must be licensed under this section in addition to the rules governing family child care or group family child care if one of the following applies:

(1) the license holder is the primary provider of care, and the nonresidential child care program is conducted in a dwelling that is located on a residential lot;

(2) the license holder is an employer who may or may not be the primary provider of care, and the purpose for the child care program is to provide child care services to children of the license holder's employees;

(3) the license holder is a church or religious organization;

(4) the license holder is a community collaborative child care license holder. For purposes of this subdivision, a community collaborative child care license holder is a license holder participating in a cooperative agreement with a community action agency as defined in section 256E.31;

(5) the license holder is a not-for-profit agency that provides child care, and the license holder maintains two or more contracts with community employers or other community organizations to provide child care services. The county licensing agency may grant a capacity variance to a license holder licensed under this paragraph to exceed the licensed capacity of 14 children by no more than five children during transition periods related to the work schedules of parents, if the license holder meets the following requirements:

(i) the program does not exceed a capacity of 14 children more than a cumulative total of four hours per day;

(ii) the program meets a one to seven staff-to-child ratio during the variance period;

(iii) all employees receive at least an extra four hours of training per year than required in 245J.06, 245J.07, and 245J.08;

(iv) the facility has square footage required per child under 245J.18;

(v) the program is in compliance with local zoning regulations;

(vi) the program is in compliance with the applicable fire code as follows:

(A) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational

occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2020, Section 202; or

(B) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code 2015, Section 202, unless the rooms in which the children are cared for are located on a level of exit discharge and each of these child care rooms has an exit door directly to the exterior, then the applicable fire code is Group E occupancies, as provided in the Minnesota State Fire Code 2020, Section 202; and

(C) any age and capacity limitations required by the fire code inspection and square footage determinations must be printed on the license; or

(6) the license holder is the primary provider of care and has located the licensed child care program in a commercial space, if the license holder meets the following requirements:

(i) the program is in compliance with local zoning regulations;

(ii) the program is in compliance with the applicable fire code as follows:

(A) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2020, Section 202; or

(B) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided under the Minnesota State Fire Code 2020, Section 202, unless the rooms in which the children 2 ½ years of age or younger are cared for are located on a level of exit discharge and each of these child care rooms has an exit door directly to the exterior, then the applicable fire code is Group E Occupancy, as provided in the Minnesota State Fire Code 2020, section 202.

(b) Any age and capacity limitations required by the fire code inspection and square footage determinations must be printed on the license.

(c) The license holder must display the license where parents and the commissioner can access and view it. The license issued by the commissioner contains the statement "This community-based child care license holder is not licensed as a child care center."

(d) The commissioner may issue up to four licenses to an organization licensed under clauses (2), (3), or (4). Each license must have its own primary provider of care as required under clause (1). Each license

must operate as a distinct and separate program in compliance with all applicable laws and regulations.

(e) For licenses issued under clauses (2), (3), (4), (5), or (6), the commissioner may approve up to four licenses at the same location or under one contiguous roof if each license holder is able to demonstrate compliance with all applicable rules and laws. Each licensed program must operate as a distinct program and within the capacity, age, and ratio distributions of each license.

(f) For a license issued under clauses (2), (3), or (5), the license holder must designate an individual to be the primary provider of care at the licensed location on a form and in a manner prescribed by the commissioner. Each program is limited to identifying one individual to be the primary provider of care. The license holder must notify the commissioner in writing before there is a change of the person designated to be the primary provider of care. The primary provider of care:

- (i) must be present during the hours of operation;

- (ii) must operate the program in compliance with applicable laws and regulations under chapters 245A and 245J;

- (iii) is considered a child care background study subject as defined in section 245C.02, subdivision 6a, and must comply with background study requirements in chapter 245C;

- (iv) must complete the training that is required of license holders in section 245J.07; and

- (v) is a controlling individual as provided in section 245A.02, subdivision 5a, paragraph (5).

(g) For any license issued under this subdivision, the license holder must ensure that any other caregiver, substitute, or helper who assists in the care of children meets the training requirements in sections 245J.07, 245J.08, and 245J.09 and background study requirements under chapter 245C.

(h) Except as provided in this section, a county agency must not grant a license holder a variance to exceed the maximum allowable family child care license capacity or 14 children.

245J.04 Licensing Process

Subdivision 1. **License application.** A license to operate a family child care, group family child care program, or community-based child care must be obtained from the department.

(a) Application for a license must be made on the application form issued by the department. The application must be made in the county where the applicant(s) for family child care and group family child care resides and where the applicant(s) for community-based child care programs will operate.

(b) Applicants looking to operate a family child care, group family child care, or community-based child care must be the individual(s) or organization that is legally responsible for the operation of the program. When the applicant is one or more individuals, the individual(s) is the primary provider of care, is present during the hours of operation, and is legally responsible for the operation of the program.

(c) Applicants and license holders who use a private non-public water supply must comply with section 245J.25:

(d) An applicant must comply with radon regulations found in section 245J.25.

(e) An application for licensure is complete when the applicant completes, signs, and submits all department forms and documentation needed for licensure to the agency and the agency receives all inspection, zoning, evaluation, and investigative reports, documentation, and information required to verify compliance with this chapter and applicable statutes. This includes a completed background study for individuals subject to a study, as required under chapter 245C.

Subd. 2. **Licensing study.** The applicant or license holder must give the agency access to the program for a licensing study to determine compliance with this chapter and applicable statutes.

(b) If, in the judgment of the agency representative, a potentially hazardous condition may be present, due to a violation of parts of this chapter, the applicant must obtain an inspection from a fire marshal, building official, or agent of a community health board as authorized under Minnesota Statutes, section 145A.04 to verify the absence of hazard and report to the agency.

(c) The program must comply with any applicable local ordinances. If the commissioner or the agency has reasonable cause to believe a hazardous condition may be present and requests an inspection by a fire marshal, building official, or authorized agent, then any condition cited by a fire marshal, building official, or authorized agent as hazardous and creating an immediate danger of fire, or threat to human life and safety, must be corrected or a variance approved in accordance with subdivision 6 prior to issuance of a license.

(d) An initial inspection of the program by a fire marshal to determine compliance with the Minnesota Uniform Fire Code and compliance with orders issued are conditions of licensure for all residences with one or more of the following conditions:

- (1) freestanding solid fuel heating appliances;
- (2) manufactured (mobile) homes;
- (3) child care programs which use the basement for child care; or
- (4) programs in mixed or multiple occupancy buildings.

(i) "Multiple occupancy building" means a structure with two or more residential dwelling units such as a duplex, apartment building, or townhome.

(ii) "Mixed occupancy building" means a program in a structure that contains nonresidential occupancies, such as an attached garage or out buildings.

Subd. 4. **Ineligibility factors.** An applicant or license holder or any other person living in the child care program or present during the hours children are in care, or working with children must not:

(a) abuse prescription drugs or use controlled substances as specified in Minnesota Statutes, chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the ability of the license holder to give care or is apparent during the hours children are in care. Caregivers who have abused prescription drugs or have been dependent on controlled substances as specified in Minnesota Statutes, chapter 152, or alcohol, such that the use, abuse, or dependency has had a negative effect on the ability to give care, was apparent during the hours children are in care, or required treatment or therapy, must have 12 months of verified abstinence before licensure;

(b) have had a child placed in foster care within the past 12 months and the agency determines the reasons for placement reflect on the ability of the license holder to give care. This requirement does not apply if the primary reason for the placement was due to a physical illness of the parent, a disability of the child, including developmental disability of the child, or for the temporary care of a newborn or infant being relinquished for adoption;

(c) have had a child placed in residential treatment within the past 12 months for emotional disturbance or antisocial behavior and the agency determines that the reasons for the placement reflect on the ability of the license holder to give care; or

(d) a household member whose needs or behavior could potentially pose a risk to children being served in the program.

Subd. 5. **Variance standard.** A variance may be granted by the agency through a form prescribed by the commissioner on regulations found in this chapter except provisions found in:

- (a) 245J.04, Subdivision 4;
- (b) 245A.146;

(c) 245J.06; and

(d) 245J.20

Subd. 6. **Variance procedure.** Request for a variance must comply with and be handled according to the requirements in section 245A.04, subdivision 9.

(a) An applicant or license holder must submit to the agency written approval from a fire marshal of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of the fire safety provisions in section 245J.18 is requested. These are section 245J.18 subdivisions 5, 6, 7, 12, 15, and 18.

(b) An applicant or license holder must submit to the agency a variance request including the alternative measures identified to ensure the safety of children in care when a variance of the health provisions in any parts of the following sections are requested: sections 245J.23, 245J.24, or 245J.25.

(c) An applicant or license holder must submit to the agency written approval from a building official of a variance request and alternative measures identified to ensure the health and safety of children in care when a variance is requested of the standards contained in section 245J.18 relating to subdivisions 10, 11 and 13.

Subd. 7. **Posting license.** The license holder must post the license in the program in a location where parents, visitors and authorized representatives of the commissioner can easily access and view it.

Subd. 8. **Change in license terms.** The following must apply to changes in the terms of a license.

(a) A new department application form must be submitted by the license holder under the following circumstances:

(1) the license holder must notify the commissioner before changes are made in accordance with section 245.04;

(2) the license holder is requesting to relocate the child care program;

(3) the license holder is requesting to change the type of care from family child care program to a group family child care program;

(4) the license holder is requesting to change the type of care from a group family child care program to a family care program;

(5) the license holder is requesting to relocate from a program they reside in to a residential location they no longer reside in; or

(6) the license holder is requesting to relocate from a residential location they do not reside in to a residential location they reside in.

(b) When the license holder is requesting to change to group family child care from family child care, the notification to the commissioner in paragraph (a) must include the changes in the ages and numbers of children in care.

Subd. 9. **Number of licenses.** Each individual applicant is limited to one family child care license.

Subd. 10. **Access to Program** As required in section 245A.04, subdivision 5, the license holder must give authorized representatives of the commissioner access to the program during the hours of operation to determine whether the program complies with the standards including chapters 245J, 245A, 245C. Access must include:

(a) the program;

(b) any adjoining land or buildings owned or operated by the applicant or license holder in conjunction with the provision of child care and designed for use by the children in care;

(c) noninterference in interviewing all caregivers and household members present in the residence on a regular basis and present during the hours of operation; and

(d) the right to view and duplicate the records and documents.

Subd. 11. **Return of license to commissioner.** When a program is closed, or if a license is revoked, suspended, or not renewed, the license holder must return the license to the commissioner within 14 days of ceasing operation or immediately upon the final order of revocation, denial, or suspension of license, stop all advertising and refrain from providing care to children as required in section 245A.03.

Subd. 12. **Local Government Authority.** The authority of local units of government to establish requirements for family child care programs is limited by section 299F.011, subdivision 4a, clauses (1) and (2).

Subd. 13. **Human Services Background Studies Act.** All individuals subject to a study must comply with the requirements of chapter 245C.

Subd. 14. **Child Care License Holder Insurance.**

(a) A license holder must provide a written notice to all parents of all children to be accepted for care prior to admission stating whether the license holder has liability insurance. This notice may be incorporated into and provided on the admission form used by the license holder.

(b) If the license holder has liability insurance:

- (1) the license holder must inform parents in writing that a current certificate of coverage for insurance is available for inspection to all parents of children receiving services and to all parents seeking services from the family child care program;
- (2) the notice must provide the parent with the date of expiration or next renewal of the policy; and
- (3) upon the expiration of the policy or a change in coverage, the license holder must provide a new written notice informing all parents of children receiving services of the change and indicating whether the insurance policy has lapsed.
- (4) If a license holder has a continuous insurance policy that renews each year, the license holder may indicate the policy's renewal date in the initial written notice to parents. This initial written notice shall remain valid, and no further notices are required until the insurance coverage changes or the policy lapses.

(c) If the license holder does not have liability insurance, the license holder must provide an annual notice, on a form developed and made available by the commissioner, to the parents of children in care indicating that the license holder does not carry liability insurance.

(d) The license holder must notify all parents in writing immediately of any change in insurance status.

(e) The license holder must make available upon request the certificate of liability insurance to the parents of children in care, to the commissioner, and to county licensing agents.

(f) The license holder must document, with the signature of the parent, that the parent received the notices required by this section.

245J.05 Agency Records

Subdivision 1. **Agency records.** The agency must maintain the following records for each license holder:

- (a) A copy of the completed licensing application form signed by the applicant and the agency.
- (b) The physical health reports on any adult giving care in the program for more than 500 hours within the calendar year.
- (c) Any written reports from the fire marshal, agent of a community health board as authorized under section 145A.04 or building official.
- (d) If the applicant has been licensed through another jurisdiction, the agency must request and keep a reference from the licensing authority in that jurisdiction.
- (e) The initial and annual relicensing inspection by the agency of the license holder. Any comments of the license holder about the inspections by the agency must also be noted in the agency record.
- (f) Notification to parents prior to admission of the presence of pets in the residence and documentation as required in section 245J.23, subdivision 2.
- (g) Documentation of any variance requests and the approval or denial of the request in accordance with section 245J.03 paragraph (a), clause (6).
- (h) Information used to disqualify an individual required to have a background study under section 245C.15.

Subd. 2. **Data privacy.** The agency, department, and the authorized agent as defined in section 245A.02, subdivision 3b must have access to license holder records on children in care to determine compliance with this chapter. The license holder must maintain the privacy of records on children by refraining from discussing or disclosing any records **or information** on children in care to any persons other than the parent of the child, the agency, the department, and medical or public safety persons if information is necessary to protect the health and safety of the child.

245J.06 Caregiver Qualifications

Subdivision 1. **Age.** An applicant for family child care or group family child care license must be an adult at the time of application.

Subd. 2. **Physical and Behavioral Health.** An adult caregiver must be physically able and mentally capable to care for children.

(a) The applicant must supply documentation to the agency with the license application that the applicant has had a physical examination from a licensed physician, advanced practice registered nurse or physician assistant within 12 months prior to the application for initial licensure and is physically able to care for children.

(b) Prior to assisting with care of children for more than 500 hours annually, the applicant must supply documentation verifying that the adult caregiver is physically able to care for children. The documentation must be provided by a licensed physician, advanced practice registered nurse, or physician assistant who examined the individual within the past twelve months.

(c) The commissioner may require an applicant, license holder, or caregiver to provide reports in a form prescribed by the commissioner, on the individual's physical or behavioral health from a licensed physician, physician assistant (PA), advanced practice registered nurse (APRN) when there is reason to believe or it is shown by credible evidence that an individual exhibits physical or behavioral health symptoms which might impair the individual's ability to ensure the health and safety of children. The reports must not be used for any other purpose than to determine whether the individual's physical or behavioral health impacts the health and safety of children.

Subd. 3. **Additional group family child care requirements.** A group family child care applicant must also meet the following requirements:

(a) a minimum of one year of substantial compliance with this Chapter as a licensed family child care license holder or primary provider of care in Minnesota; or

(b) a minimum of six months of substantial compliance with this chapter as a licensed family child care license holder or primary provider of care in Minnesota; and

(1) thirty hours of child care, health, and nutrition training as specified in section 245J.07, and a minimum of 520 hours of experience as an assistant teacher, student teacher, or intern in an elementary school, after school program or Minnesota licensed child care center, or as an adult caregiver in a Minnesota licensed group family child care program; or

(2) 30 hours of child development or early childhood education training, as specified in section 245J.06, and a minimum of 520 hours of experience as a licensed practical or registered nurse; or

(c) certification or licensure indicating one of the following:

(1) completion of a two-year child development or early childhood education associate or certificate program at an accredited college or university; or

(2) Child Development Assistant Certification (CDA); or

(3) bachelor's degree or higher from an approved early childhood education certification program at an accredited college or university; or

(4) kindergarten through sixth grade teaching degree from an accredited university or college that includes a minimum of 30 hours of child development training; or

(5) verification of a minimum of six months experience as a full-time teacher at a Minnesota licensed child care center.

245J.07 License Holder and Second Adult Caregiver Training Requirements

Subdivision 1. License holder and second adult caregiver initial training requirements.

(a) License holders and second adult caregivers must comply with the training requirements in this section.

(b) County licensing staff must accept approved training in Develop: Minnesota's Quality Improvement and Registry tool for early education and school-age care professionals on the provider's Develop learning record for the provider including:

(1) face-to-face or classroom training;

(2) online training; and

(3) relationship-based professional development, such as mentoring, coaching, and consulting.

(c) Training requirements under this subdivision must be completed prior to initial licensure for a newly licensed family child care license holder or by a family child care license holder who has not held an active child care license in Minnesota in the previous 12 months.

(1) A family child care license holder who voluntarily closes their license and who seeks to open a new license within 12 months of the date of closure has one year from the effective date of the new license to complete the annual ongoing training requirements according to the schedules established in this section and is not required to complete the training requirements that must be completed prior to initial licensure.

(2) A child care license holder who relocates outside of their current county or agency and moves within the state has until the end of the calendar year to complete the annual ongoing training requirements according to the schedules established in this section and is not required to complete the training requirements under this section that the child care license holder completed prior to initial licensure.

(3) If a license holder moves to a new county, the new county is prohibited from requiring the license holder to complete any orientation class or training for new license holders or applicants.

(d) The license holder and each second adult caregiver must complete and document at least four hours of child development and learning and behavior guidance training prior to initial licensure and before caring for children.

(1) Notwithstanding initial child development and learning and behavior guidance training requirements in paragraph (d), individuals are exempt from this requirement if they have documentation verifying that they:

(i) have taken a three-credit course on early childhood development within the past five years;

(ii) have received a baccalaureate or master's degree in early childhood education or school-age child care within the past five years;

(iii) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to 6th grade teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or

(iv) have received a baccalaureate degree with a Montessori certificate within the past five years.

(e) Before initial licensure and before caring for children, all family child care license holders and each second adult caregiver must complete and document the completion of the six-hour Supervising for Safety for Family Child Care course developed by the commissioner.

(f) Before initial licensure and before caring for children, license holders and second adult caregivers must be trained in pediatric first aid.

(1) Notwithstanding the provisions of this section, any caregiver who has yet to complete initial pediatric first aid training may provide direct contact services for up to 90 days, if they are under the continuous direct supervision of an individual who has current certification in pediatric first aid. For purposes of this paragraph, "continuous, direct supervision" means the caregiver is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.

(2) The pediatric first aid training must have been provided by an individual certified to provide pediatric first aid instruction.

(3) Pediatric first aid training may be less than eight hours.

(4) License holders and second adult caregivers must maintain current documentation of the training and must be maintained at the program and available upon request.

(5) On-line training reviewed and approved by the county licensing agency satisfies the training requirement of this paragraph.

(g) Before initial licensure and before caring for children, license holders and second adult caregivers must be trained in pediatric cardiopulmonary resuscitation (CPR), including CPR techniques for infants and children, and in the treatment of obstructed airways.

(h) Before initial licensure and before caring for infants, the applicant, primary provider of care, and second adult caregiver must complete training on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death; and before the license holder and each second adult caregiver assist in the care of children under school age, they must complete training on reducing the risk of abusive head trauma from shaking infants and young children.

(1) Training for family and group family child care license holders and second adult caregivers must be designated by the commissioner to meet the requirements in this paragraph. Sudden unexpected infant death reduction training and abusive head trauma training may be provided in a single course of no more than two hours in length.

(2) Sudden unexpected infant death reduction training required under this paragraph must, at a minimum, address the risk factors related to sudden unexpected infant death, means of reducing the risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(3) Abusive head trauma training required under this section must, at a minimum, address the risk factors related to shaking infants and young children, means of reducing the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma.

(i) Before a license holder or second adult caregiver transports a child or children under eight years of age in a motor vehicle, the person placing the child or children in a passenger restraint and the driver must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles.

(1) A license holder and each second adult caregiver must comply with all seat belt and child passenger restraint system requirements under section 169.685.

(2) Training required under this paragraph must be at least one hour in length, completed at initial training and include at a minimum:

(i) the proper use of child restraint systems based on the child's size, weight, and age; and

(ii) the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(3) Training under this paragraph must be provided by individuals who are certified and approved in Develop.

(4) Child care license holders and second adult caregivers that only transport school-age children as defined in subdivision 1, paragraph (i) of this section in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this paragraph.

(j) Before a second adult caregiver cares for a child or assists in the care of a child, the license holder must train the second adult caregiver on:

(1) the emergency preparedness plan required under section 245J.21 , subdivision 2; and

(2) allergy prevention and response required under section 245J.15, subdivision 5, paragraph (b).

(k) Prior to licensure or employment, the license holder and each second adult caregiver must complete training on the family child care and group family child care program policies and procedures listed in section 245J.15.

(1) If there are changes to any of the policies and procedures the license holder and each second adult caregiver must complete training on the revised policies and procedures within 10 days of the change.

(2) Documentation of each training on the revised policies and procedures must be kept at the program.

(l) The license holder and second adult caregiver must complete training on the reporting of suspected abuse, neglect or maltreatment of children as required by chapter 260E, prior to licensure or caring for a child.

(m) The license holder must complete the training requirements in section 245J.18, subdivision 5, paragraph (a) to be eligible to allow a child cared for at the program to use the swimming pool located at the program.

Subd. 2. License holder and second adult caregiver annual training requirements.

(a) The license holder and each second adult caregiver must annually take at least two hours of child development and learning or behavior guidance training. A three-credit early childhood development course taken within the calendar year meets the requirements of this paragraph.

(b) The license holder and each second adult caregiver must annually complete and document:

(1) a two-hour active supervision course developed or approved by the commissioner; or

(2) any courses in the ensuring safety competency area under the health, safety, and nutrition standard of the Knowledge and Competency Framework that the commissioner has identified as an active supervision training course.

(c) License holders and second adult caregivers must ensure and document that the license holder and each second adult caregiver receive training on reducing the risk of abusive head trauma from shaking infants and young children, and sudden unexpected infant death each calendar year.

(1) Reducing the risk of sudden unexpected infant death training and abusive head trauma training required under this paragraph must be completed at least once every two years either in-person or online.

(2) On the years when the individual receiving training is not receiving training in-person or online as allowed under subdivision 1, paragraph (b), clauses (1) or (2), the individual receiving training in accordance with this subdivision must receive sudden unexpected infant death reduction training and abusive head trauma training through a video of no more than one hour in length. The video must be developed or approved by the commissioner.

(d) The license holder and each second adult caregiver must complete 16 hours of ongoing training annually. **An individual shall not use a specific training or class to meet minimum training requirements more than one time every 5 years.** Repeat of topical training requirements in paragraph (f) must count toward the annual 16-hour training requirement.

(e) Additional ongoing training subjects to meet the annual 16-hour training requirement must be selected from the following Knowledge and Competency Frameworks (KCF) areas:

(1) **KCF content area I** - child development and learning training in understanding how a child develops physically, cognitively, emotionally, and socially, and how a child learns as part of the child's family, culture, and community;

(2) **KCF content area II** - developmentally appropriate learning experiences, including training in creating positive learning experiences, promoting cognitive development, promoting social and emotional development, promoting physical development, promoting creative development; and behavior guidance;

(3) **KCF content area III** - relationships with families, including training in building a positive, respectful relationship with the child's family;

(4) **KCF content area IV** - assessment, evaluation, and individualization, including training in observing, recording, and assessing development; assessing and using information to plan; and assessing and using information to enhance and maintain program quality;

(5) **KCF content area V** - historical and contemporary development of early childhood education, including training in past and current practices in early childhood education and how current events and issues affect children, families, and programs;

- (6) KCF content area VI - professionalism, including training in knowledge, skills, and abilities that promote ongoing professional development;
- (7) KCF content area VII - health, safety, and nutrition, including training in establishing healthy practices; ensuring safety; and providing healthy nutrition;
- (8) KCF content area VII.D or KCF I - an understanding and support of the importance of culture and differences in ability in children's identity development;
- (9) KCF content area VII.D or KCF III - understanding the importance of awareness of cultural differences and similarities in working with children and their families;
- (10) KCF content area III - understanding and support of the needs of families and children with differences in ability;
- (11) KCF content area VII.D or KCF I and II - developing skills to help children develop unbiased attitudes about cultural differences and differences in ability;
- (12) KCF content area VII.D or KCF II - developing skills in culturally appropriate caregiving;
- (13) KCF content area II - developing skills in appropriate caregiving for children of different abilities;
- (14) KCF content area IX – trauma informed care and practices; and
- (15) KCF content area X - working with multilingual children and their families.

(f) A license holder who is approved as a trainer through the Develop data system may count topics of training instruction toward the annual 16-hour training requirement in paragraph (e) if all the following is met:

- (1) The license holder may only count training instruction hours for the first instance in which they deliver a particular content-specific training during each training year.
- (2) The license holder must be a Develop-approved, active trainer.
- (3) Hours counted as training instruction must be approved through the Develop data system with attendance verified on the trainer's individual learning record and must be in a Knowledge and Competency Framework content area VII A (Establishing Healthy Practices) or B (Ensuring Safety). Training required by paragraph (e) may be counted if the trainer meets all requirements of this section.

(g) The commissioner posts information on the department's website indicating the specific category within the Knowledge and Competency Framework that will satisfy training requirements for child

development and learning, behavior guidance, and active supervision. County licensing staff must accept training designated as satisfying training requirements by the commissioner under this paragraph.

(h) Unless specifically authorized in this section, one training does not fulfill two different training requirements. Courses within the identified knowledge and competency areas that are specific to child care centers or legal nonlicensed programs do not fulfill the requirements of this section.

Subd. 3. License holder and second adult caregiver ongoing training requirements.

(a) License holders and second adult caregivers must maintain documentation of the training and must maintain documentation at the program and available upon request.

(1) Persons providing CPR training must use CPR training that has been:

- (i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or
- (ii) uses nationally recognized, evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.

(2) The CPR training must be provided by an individual approved to provide CPR instruction.

(3) CPR courses must be either instructor lead or a blended course of online instruction with a hands-on skill component.

(4) Online-only CPR courses that do not include a hands-on skill session component do not meet the requirements of this paragraph.

(b) License holders and second adult caregivers must be trained in pediatric first aid.

(1) Notwithstanding the provisions of this section, any second adult caregiver who has yet to complete initial pediatric first aid training may provide direct contact services for up to 90 days, if they are under the continuous direct supervision of an individual who has current certification in pediatric first aid. For purposes of this paragraph, "continuous, direct supervision" means the caregiver is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.

(2) The first aid training must have been provided by an individual certified to provide pediatric first aid instruction.

(3) Pediatric first aid training may be less than eight hours.

(4) License holders and second adult caregivers must maintain documentation of the training and must maintain documentation at the program and available upon request.

(5) Online training reviewed and approved by the county licensing agency satisfies the training requirement of this paragraph.

(c) The license holder and each second adult caregiver must complete and document completion of both Health and Safety I and Health and Safety II at least once every five years. A license holder's or second adult caregiver's completion of either training in a given year meets the annual active supervision training requirement in subdivision 2, paragraph (b).

(d) Before a license holder or second adult caregiver transports a child or children under age eight in a motor vehicle, the person placing the child or children in a passenger restraint and the driver must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles.

(1) Training required under this paragraph must be at least one hour in length and repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(2) Training under this subdivision must be provided by individuals who are certified and approved in Develop.

(3) Child care license holders and second adult caregivers that only transport school-age children as defined in section 245J.01, subdivision 17(e), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

245J.08 Substitute and Intermittent Caregiver Training Requirements

Subdivision 1. **Substitute and intermittent caregiver initial training requirements.**

(a) Substitutes and intermittent caregivers must comply with the training requirements in this section.

(b) County licensing staff must accept training approved on the substitute or intermittent caregiver's Develop learning record, including:

(1) face-to-face or classroom training;

(2) online training; and

(3) relationship-based professional development, such as mentoring, coaching, and consulting.

(c) The license holder must ensure and document that, before caring for a child, all substitutes and intermittent caregivers have completed the four-hour Basics of Licensed Family Child Care for Substitutes course developed by the commissioner.

(d) Before caring for a child, substitutes and intermittent caregivers must be trained in pediatric first aid.

(1) Notwithstanding the provisions of this section, any caregiver who has yet to complete initial pediatric first aid training may provide direct contact services for up to 90 days, if they are under the continuous direct supervision of an individual who has current certification in pediatric first aid. For purposes of this paragraph, "continuous, direct supervision" means the caregiver is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.

(2) The first aid training must have been provided by an individual certified to provide pediatric first aid instruction.

(3) Pediatric first aid training may be less than eight hours.

(4) Substitutes and intermittent caregivers must maintain documentation of the training and must maintain documentation at the program and available upon request.

(5) Online training reviewed and approved by the county licensing agency satisfies the training requirement of this paragraph.

(e) Before initial licensure and before caring for children, substitutes and intermittent caregivers must be trained in pediatric cardiopulmonary resuscitation (CPR), including CPR techniques for infants and children, and in the treatment of obstructed airways.

(1) Persons providing CPR training must use CPR training that has been:

- (i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or
- (ii) using nationally recognized, evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.

(2) The CPR training must be provided by an individual approved to provide CPR instruction.

(3) CPR courses must be either instructor lead or a blended course of online instruction with a hands-on skill component.

(4) CPR only offered online courses that do not include a hands-on skill session component do not meet the requirements of this subdivision.

(f) Notwithstanding the provisions of this section, any caregiver who has yet to complete initial pediatric CPR training may provide direct contact services for up to 90 days following the date of hire, if they are under the continuous direct supervision of an individual who has been trained in pediatric CPR. For purposes of this paragraph, "continuous, direct supervision" means the caregiver is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.

(g) License holders must ensure and document that before substitutes and intermittent caregivers assist in the care of infants, they receive training on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death; and before substitutes assist in the care of children under school age, they receive training on reducing the risk of abusive head trauma from shaking infants and young children.

(1) Training for substitutes and intermittent caregivers must be developed by the commissioner and approved by Develop. Sudden unexpected infant death reduction training and abusive head trauma training may be provided in a single course of no more than two hours in length.

(2) Sudden unexpected infant death reduction training required under this paragraph must, at a minimum, address the risk factors related to sudden unexpected infant death, means of reducing the risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(3) Abusive head trauma training required under this paragraph must, at a minimum, address the risk factors related to shaking infants and young children, means of reducing the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma

(h) Before a substitute or intermittent caregiver transports a child or children under age eight in a motor vehicle, the person placing the child or children in a passenger restraint and the driver must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles.

(1) A substitute and intermittent caregiver must comply with all seat belt and child passenger restraint system requirements under section 169.685.

(2) Family child care and group family child care programs licensed by the Department of Human Services that serve and plan to transport a child or children under eight years of age must document training that fulfills the requirements in this subdivision.

(3) Training required under this paragraph must be at least one hour in length, completed at initial training. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(4) Training under this subdivision must be provided by individuals who are certified and approved in Develop.

(5) Substitutes that only transport school-age children as defined in section 245J.01, subdivision 17 (e), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from the requirements of this subdivision.

(i) Before a substitute or intermittent caregiver cares for a child or assists in the care of a child, the license holder must train the substitute or intermittent caregiver on:

(1) The emergency preparedness plan required under section 245J.19, subdivision 2; and

(2) Allergy prevention and response required under section 245J.14, subdivision 7(e).

(j) Prior to employment, substitutes and intermittent caregivers must complete training on the program policies and procedures listed in section 245J.14. If there are changes to any of the policies and procedures the substitute must complete training on the revised policies and procedures within 10 days of the change. Documentation of each training on the revised policies and procedures must be kept at the program.

(k) The substitute and intermittent caregiver must complete the training requirements in section 245J.06, subdivision 3 to be eligible to allow a child cared for at the program to use the swimming pool located at the program.

(l) The substitute and intermittent caregiver must complete training on the reporting of suspected abuse, neglect or maltreatment of children as required by chapter 260E, prior to caring for a child.

Subd. 2. Substitute and Intermittent Caregiver Annual Training Requirements.

(a) License holders must ensure and document that each substitute and intermittent caregiver receives training on reducing the risk of abusive head trauma from shaking infants and young children, and sudden unexpected infant death annually.

(1) Sudden unexpected infant death reduction training and abusive head trauma training required under this paragraph must be completed either in-person or online at least once every two calendar years.

(2) On the years when the individual receiving training is not receiving training in-person or online as allowed under subdivision 1, paragraph (b), clauses (1) or (2), the individual receiving training in accordance with this subdivision must receive sudden unexpected infant death reduction training and abusive head trauma training through a video of no more than one hour in length. The video must be developed or approved by the commissioner.

Subd. 3. Substitute and Intermittent Caregiver Ongoing Training Requirements.

(a) At least once every three years, license holders must ensure and document that substitutes and intermittent caregivers have completed the four-hour Basics of Licensed Family Child Care for Substitutes course.

(b) Substitutes and intermittent caregivers must maintain current certification in pediatric CPR training and documentation of the training must be maintained at the family child care program.

(1) Persons providing CPR training must use CPR training that has been:

(i) developed by the American Heart Association or the American Red Cross and incorporates a hands-on skill session to support the instruction; or

(ii) using nationally recognized, evidence-based guidelines for CPR training and incorporates a hands-on skills session to support the instruction.

(2) The CPR training must be provided by an individual approved to provide CPR instruction.

(3) CPR courses must be either instructor lead or a blended course of online instruction with a hands-on skill component.

(4) CPR only offered online courses that do not include a hands-on skill session component do not meet the requirements of this subdivision.

(c) Substitutes and intermittent caregivers must be trained in pediatric first aid.

(1) Notwithstanding the provisions of this section, any substitute who has yet to complete initial pediatric first aid training may provide direct contact services for up to 90 days, if they are under the continuous direct supervision of an individual who has been trained in pediatric first aid. For purposes of this paragraph, “continuous, direct supervision” means the substitute is within sight or hearing of the program’s supervising individual to the extent that the program’s supervising individual is capable at all times of intervening to protect the health and safety of the children served by the program.

(2) The first aid training must have been provided by an individual certified to provide pediatric first aid instruction.

(3) Pediatric first aid training may be less than eight hours.

(4) Substitutes and intermittent caregivers must maintain documentation of the training and must maintain documentation at the program and available upon request.

(5) Online training reviewed and approved by the county licensing agency satisfies the training requirement of this paragraph.

(d) Before a substitute or intermittent caregiver transports a child or children under age eight in a motor vehicle, the person placing the child or children in a passenger restraint and the driver must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles.

(1) Training required under this paragraph must be at least one hour in length and repeated at least once every five years. When the training expires, it must be retaken no later than the day before the expiration date. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(2) Training under this paragraph must be provided by individuals who are certified and approved in Develop.

(3) Child care substitutes or intermittent caregivers that only transport school-age children as defined in section 245J.01, subdivision 17 (e), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

245J.09 Helper Training Requirements

Subdivision 1. Helper Initial Training Requirements.

(a) Helpers must comply with the training requirements in this section.

(b) County licensing staff must accept training approved on the helper's Develop learning record, including:

(1) face-to-face or classroom training;

(2) online training; and

(3) relationship-based professional development, such as mentoring, coaching, and consulting.

(c) Helpers who assist with care on a regular basis must complete six hours of training within one year after the date of initial employment.

(d) License holders must ensure and document that before helpers assist in the care of infants, they receive training on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death; and before helpers assist in the care of children under school age, they receive training on reducing the risk of abusive head trauma from shaking infants and young children.

(1) Sudden unexpected infant death reduction training and abusive head trauma training may be provided in a single course of no more than two hours in length.

(2) Sudden unexpected infant death reduction training required under this paragraph must, at a minimum, address the risk factors related to sudden unexpected infant death, means of reducing the risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(3) Abusive head trauma training required under this paragraph must, at a minimum, address the risk factors related to shaking infants and young children, means of reducing the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma.

(e) The helper must complete training on the reporting of suspected abuse, neglect or maltreatment of children as required by chapter 260E prior to licensure or caring for a child.

Subd. 2. Helper Annual Training Requirements.

(a) License holders must ensure and document that each helper receives training on reducing the risk of abusive head trauma from shaking infants and young children, and sudden unexpected infant death annually.

(1) Sudden unexpected infant death reduction training and abusive head trauma training required under this paragraph must be completed either in person or online at least once every two calendar years.

(2) On the years when the individual receiving training is not receiving training in person or online as allowed under subdivision 1, paragraph (b), clauses (1) or (2), the individual receiving training in accordance with this subdivision must receive sudden unexpected infant death reduction training and abusive head trauma training through a video of no more than one hour in length. The video must be developed or approved by the commissioner.

245J.10 Substitute Caregivers and Replacements

Subdivision 1. **Total hours allowed.** Notwithstanding section 245J.12, subdivision 5 the use of a substitute caregiver in a licensed family child care or group family child care program must be limited to a cumulative total of not more than 500 hours annually. Prior to the end of the business day, the license holder must document the name, dates, and number of hours of the substitute who provided care.

Subd. 2. **Emergency replacement supervision.**

(a) A license holder may allow an adult who has not completed the training requirements under this chapter or the background study requirements under chapter 245C to supervise children in a family child care program in an emergency. For purposes of this subdivision, an emergency is a situation in which the license holder has begun operating the family child care program for the day and for reasons beyond the control of the license holder, including, but not limited to a serious illness or injury, accident, or situation requiring the immediate attention of the license holder, the license holder needs to leave the licensed space and close the program for the day.

(b) To the extent practicable, the license holder must attempt to arrange for emergency care by a substitute caregiver before using an emergency replacement.

(c) When an emergency occurs, the license holder must:

(1) Contact the parents of the children attending the program and inform them that the program is closing, and they need to pick up their children as soon as is practicable;

(2) Not knowingly use a person as an emergency replacement who has committed an action or has been convicted of a crime that would cause the person to be disqualified from providing care to children if a background study was conducted under chapter 245C;

(3) Make reasonable efforts to minimize the time the emergency replacement has unsupervised contact with the children in care;

(4) Close the program for the day once the last unrelated child has left the program; and

(5) Notify the county licensing agency within seven days that an emergency replacement was used and specify the circumstances that led to the use of the emergency replacement.

(d) The county licensing agency must notify the commissioner within three business days after receiving the license holder's notice that an emergency replacement was used and specify the circumstances that led to the use of the emergency replacement.

(e) A license holder is not required to provide the names of persons who may be used as replacements in emergencies to parents or the county licensing agency.

245J.11 Supervision of Family Child Care License Holder's Own Child

Subdivision 1. License holder care of own child or children.

(a) With the license holder's consent, an individual may be present in the licensed space, may care for the family child care license holder's own child both inside and outside of the licensed space, and is exempt from the training and supervision requirements of section 245J.06 if the individual:

- (1) is related to the license holder or to the license holder's child, as defined in section 245A.02, subdivision 13, or is a household member who the license holder has reported to the county agency;
- (2) is not a designated caregiver, helper, or substitute for the licensed program;
- (3) is involved only in the care of the license holder's own child; and
- (4) does not have direct, unsupervised contact with any nonrelative children receiving services.

(b) If the individual in paragraph (a) is not a household member, the individual is also exempt from background study requirements under chapter 245C.

245J.12 Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions

Subdivision 1. **Capacity limits.** Family child care and group family child care license holders must comply with the following requirements which limits the total number of children and the number of preschoolers, toddlers, infants, and newborns who may be in care at any one time and establishes the number of adults who are required to be present.

(a) License holders must be licensed for the total number of children, 10 years of age or younger, who are **present in the program at any one-time during child care hours**. The licensed capacity must include all children of child care age, **including foster children, when the children are present at the program. When the program is in a residence, the license capacity must include all children of any caregiver** when the children are present at the residence.

(b) Within the licensed capacity, the age distribution restrictions specify the maximum number of children who are under school age, **preschoolers**, toddlers, infants, and **newborns** who are in care at any one-time during child care hours.

Subd. 2. **Specialized infant and toddler group family child care.** In specialized infant and toddler group family child care, caregivers must be adults. Helpers are permitted for additional support but cannot be used in place of an adult caregiver.

Subd. 3. **Newborn care.** When a newborn is in care and only one adult caregiver is present, the newborn must be the only child under 12 months of age and the license holder must not care for more than two other children at the same time unless another adult caregiver is also present, or the newborn is the license holder's child. When a second adult caregiver is also present or the newborn is the child of the license holder, then the newborn counts as an infant when considering child-to-adult ratios and age distribution restrictions.

Subd. 4. **Helpers.** Excluding specialized infant and toddler group family child care, a helper may be used in place of a second adult caregiver when there is no more than one newborn, infant or toddler present.

Subd. 5. **Supervision, primary caregiver, and use of substitutes.** A license holder **or the primary provider of care in a community-based child care program** must be the caregiver in the licensed family child care program unless a substitute is being used. **Children in care must be supervised by a caregiver. All caregivers must be awake while providing child care services.** The use of a substitute caregiver must be limited to the requirements in section 245J.10

Subd. 6. **Capacity, ratios, and age distribution restrictions.** Family child care and group family child care license holders must comply with the following requirements and restrictions:

(a) **Family Child Care - Class A License.** A helper may be used in place of a second adult caregiver when there is no more than one infant or toddler present.

Setting	Class	Capacity	Adults	Children Under School Age	Infant and Toddler Restrictions
Family Child Care	A	10	1	6	Of the total children under school age, a combined total of no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants.

(b) **Specialized Infant and Toddler Family Child Care License.**

Setting	Class	Capacity	Adults	Children Under School Age	Infant and Toddler Restrictions
Specialized Infant & Toddler Family Home License	B1	5	1	3	Maximum 3 infants
	B2	6	1	4	Maximum 2 infants

(c) **Group Family Child Care.**

Setting	Class	Capacity	Adults	Children Under School Age	Infant and Toddler Restrictions
Group Family Child Care License	C1	10	1	8	Of the total children under school age, a combined total of no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants
	C2	12	1	10	Of the total children under school age, a combined total of no more than 2 shall be infants and toddlers. Of this total, no more than 1 shall be an infant.
	C3	14	2	10	Of the total children under school age, a combined total of no more than 4 shall be infants and toddlers. Of this total, no more than 3 shall be infants.

(d) **Specialized Infant and Toddler Group Family Child Care- Class D License.** Both caregivers must be adults.

Setting	Class	Capacity	Adults	Children Under School Age	Infant and Toddler Restrictions
Specialized Infant and Toddler Group Family Child Care	D	9	2	7	Maximum of 4 infants

Subd. 7. Group family child care operation option. A group family child care program licensed as a C3 program may operate as a C2 or C1 program on days when the adult-to-child ratios allow them to operate at a lower capacity.

245J.13 Reporting to Agency

Subdivision 1. **Maltreatment, abuse, neglect reporting.** All caregivers who suspect, know, or have reason to believe a child is being or has been maltreated, including but not limited to abuse or neglect, must immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police as required by chapter 260E.

Subd. 2. **Other reporting.** The license holder must inform the agency of the following:

- (a) Prior to anyone moving in to the residence where family child care services are provided;
- (b) Within 10 days of anyone moving out of the residence where family child care services are provided;
- (c) Prior to an individual providing direct contact services;
- (d) Immediately after the occurrence of a fire that requires the service of a fire department so the agency may determine continued substantial compliance with this chapter ; and
- (e) Immediately after the occurrence of any serious injury. A serious injury is one that is treated by a licensed physician, physician assistant, advanced practice registered nurse or certified nurse practitioner.

245J.14 Behavior Guidance

Subdivision 1. Definitions.

(a) “Behavior guidance” is an ongoing process whereby caregivers offer constructive, positive, and developmentally appropriate guidance to children, to help them manage their own behavior in a socially acceptable manner.

(b) “Persistent unacceptable behavior” occurs when a child exhibits behavior that presents a serious safety risk for the child or others, and the program is not able to reduce or eliminate the safety concern. This behavior may include physical aggression, verbal threats or actions that significantly disrupt the learning environment, or repetitive behaviors that have been addressed through standard behavior guidance techniques without improvement.

(c) “Redirection” is when a caregiver intervenes and guides a child away from potential problems toward constructive activity through positive techniques.

(d) “Separation” is a form of behavior guidance that involves interruption of unacceptable behavior by the removal of a child from a situation, with the intention of allowing the child an opportunity to pause and gain self-control. During a separation a child is isolated from participating in activities with other children.

Subd. 2. Behavior guidance policies and procedures. The applicant must develop written behavior guidance policies and procedures. The license holder must ensure that the policies and procedures are carried out. The policies and procedures must include:

- (a) Methods of promoting positive behavior as specified under subdivision 3;
- (b) Prohibited actions as specified under subdivision 4;
- (c) Addressing persistent unacceptable behavior as specified under subdivision 5; and
- (d) Separation from the group as specified in subdivision 6.

Subd. 3. Methods of promoting positive behavior. The license holder must:

- (a) Ensure that each child is provided with a positive model of acceptable behavior;
- (b) Tailor methods of promoting positive behavior to the developmental level of the children the program is licensed to serve;
- (c) Ensure redirection, as defined in subdivision 1, is used as appropriate in addressing a child’s behavior, to guide a child away from potential problems toward constructive activity;
- (d) Teach children how to use acceptable alternatives to problem behavior to reduce conflict; and
- (e) Protect the safety and well-being of children and caregivers.

Subd. 4. **Prohibited Actions.** The license holder must have and enforce a policy that prohibits the following actions by or at the direction of the license holder or any other caregiver:

- (a) Subjection of a child to corporal or physical punishment. This includes, but is not limited to rough handling, shoving, hair pulling, ear pulling, shaking, slapping, kicking, biting, pinching, spitting, hitting, and spanking.
- (b) Subjection of a child to name calling, ostracism, shaming, making derogatory remarks about the child or the child's family, cultural or racial slurs, and yelling or using profane language that threatens, humiliates, or frightens the child.
- (c) Forcing a child to maintain an uncomfortable position, or to continuously repeat physical movements.
- (d) Group punishments for the behavior of an individual child. A group activity must not be cancelled for the entire group, prior to the activity, due to the behavior of one or more children.
- (e) Separation of a child from the group except as provided in subdivision 7.
- (f) Punishment for not resting, napping, or sleeping; toileting accidents; failing to eat all or part of meals or snacks; or failing to complete an activity.
- (g) Denial of food or drink or forcing food or drink upon a child.
- (h) Denial of light, warmth, clothing, or medical care as a punishment for unacceptable behavior.
- (i) The use of physical restraint other than to physically hold a child when containment is necessary to protect a child or others from harm.
- (j) The use of mechanical restraints, such as tying, or any device or equipment intended to restrict or prevent movement as a means of discipline or convenience by caregivers, including but not limited to confinement to a swing, highchair, infant carrier, walker, or crib.
- (k) The use of any substance given to a child to subdue or restrict movement or behavior.
- (l) Discipline and punishment must not be delegated to another child.
- (m) Punishing or shaming a child for the actions of a parent. This includes, but is not limited to, failure to pay fees, failure to provide appropriate clothing, failure to provide materials for an activity, or any conflict between the license holder or caregiver and the parent.

Subd. 5. **Persistent unacceptable behavior.** The persistent unacceptable behavior policies and procedures must include:

- (a) Caregivers who observe persistent unacceptable behavior must discuss with the parents and document the behavior of the child and caregiver response to the behavior within 24 hours of the incident occurring or as soon as is practicable.

(b) When persistent unacceptable behavior as defined in subdivision 1, paragraph (b) occurs, a behavior plan must be developed and implemented to address the behavior documented in paragraph (a) of this subdivision, in consultation with the child's parent, the license holder, all caregivers, and other professionals involved in the care and treatment of the child, as appropriate.

Subd. 6. Separation time from the group. No child may be separated from the group unless the license holder has tried less intrusive methods of guiding the child's behavior which have been ineffective, and the child's behavior threatens the well-being of the child or other children in the program. Separation from the group must meet the following requirements:

- (a) The separation time must be limited to the amount of time necessary for the child to gain self-control and rejoin the group, not to exceed ten minutes;
- (b) The duration of the child's separation must be documented, including beginning and end time of the separation;
- (c) Infants and toddlers must not be separated from the group as a means of behavior guidance;
- (d) The child must be supervised as defined under section 245J.01, subdivision 36; and
- (e) Upon the child's return to the activity, the caregiver must review the reason for the separation and discuss the expected behavior with the child.

Subd 7. Additional provisions.

- (a) When providing services to a child with a developmental disability or related condition, the license holder must follow section 245A.23.
- (b) A program that cares for a child with a developmental disability or related condition must comply with the individual child care plan requirements under section 245J.16.

245J.15 Admissions; License Holder Records; Reporting

Subdivision 1. **Admission and ongoing information.** At the time of admission; on an ongoing, routine basis; and as applicable based on the needs of the child, parent or license holder, the license holder and parents must discuss the following: child rearing, sleeping, feeding, behavior guidance practices, health conditions, information about any known allergy from the child's parent, toilet training, special needs of the child, as applicable, and any other areas essential for the care of the child.

(a) The license holder must obtain written instructions and information from the parent, physician, or therapist to enable accommodation and full inclusion of children with disabilities and special health care needs to achieve a level of participation in the family child care program as close as possible to that of typically developing children.

Subd. 2. **Statutory summary for parents.** A descriptive summary of this chapter must be distributed to the parent by the license holder at the time a child is admitted to care. The summary must be provided by the department to the county licensing agencies for distribution to the license holder. The summary must be written in plain language understandable to the general public, and if provided electronically, be in a format that meets The Rehabilitation Act of 1973 Section 508 and the Web Content Accessibility Guidelines 2.0 for developing and maintaining accessible statewide information and telecommunications technology systems and services; and:

- (a) state that this chapter governs the licensing of family child care programs;
- (b) specify the rule section headings contained in this chapter; and
- (c) state that a complete copy of this chapter may be seen at the child care program, the agency, department, or Minnesota State Law Library, or through the Minnesota Office of the Revisor of Statutes website.

Subd. 3. **Parental access in family child care and group family child care programs.** An enrolled child's parent must be allowed access to their child and the program at any time while the child is in care unless a court order or other legal documentation restricts access. A copy of the order or other legal documentation must be kept in the child's record.

Subd. 4. **Attendance records.** A license holder must maintain documentation of actual attendance for each child receiving care. The records must be accessible to the commissioner during the program's hours of operation, must be completed on the actual day of attendance, and must include:

- (a) The first and last names and birth dates of each child in care;
- (b) The child's weekly schedule; and
- (c) The time, including hours and minutes, of the child's arrival and departure.

Subd. 5. License holder policies.

(a) The license holder shall monitor implementation of the policies and procedures by program staff as required in section 245A.04, subdivision 14.

(b) The license holder must have the following written information available for discussion with parents and the commissioner and provide an electronic or hard copy of the materials to the parent at the time of admission or any other time upon request:

- (1) the ages and numbers of children the family care program is licensed to serve;
- (2) the hours and days of operation, including plans for holiday closings, personal time, and policies for inclement weather closings;
- (3) fees, including payment schedule, overtime charges and registration fees as applicable;
- (4) required enrollment information;
- (5) allergy prevention and response policy and procedure;
- (6) meals and snacks to be served;
- (7) policy regarding formula, breast milk, and providing supplemental foods;
- (8) labeling requirements for food brought from the child's home;
- (9) sleeping and resting arrangements;
- (10) nondiscrimination practices to comply with 245J.16, subdivision 2;
- (11) policies for the care of ill children, isolation precautions, symptoms for discharge and return, immunizations, and medicine permission policies; and whether the license holder will care for an ill child;
- (12) disease notification procedures;
- (13) policies for the administration and storage of medication and topical products, including sunscreen, and including whether school age children are permitted to carry their own medication and topical products;
- (14) emergency, fire, and storm plans, and the monthly fire drill log;
- (15) transportation policy for field trips, walking trips, if applicable, emergencies, transportation consent/permission requirements;
- (16) behavior guidance and discipline;

(17) situations that may require disenrollment of a child, if applicable, including termination and expulsion notice procedures;

(18) plans for a use of a helper and plans for use of a substitute for emergencies, personal leave, or holidays;

(19) the presence of pets in the program, including a 14-day notification prior to the introduction of a new pet to the program;

(20) a written policy about notifying a parent of a child whose skin is broken by an animal bite or scratch on the day the injury occurs;

(21) a written policy from an agent of a community health board as authorized under section 145A.04 will be immediately notified whenever a child in care is bitten by an animal, the notification must be given before any steps are taken to destroy the animal, and the provider must take reasonable steps to confine the animal;

(22) a written policy on screen time that includes caregiver education and screen time use as required in section;

(23) a copy of the liability insurance coverage information, including, as applicable, notification of no insurance coverage;

(24) a written policy prohibiting smoking, use of tobacco products, vaping, and electronic cigarettes inside the licensed program during child care hours, or in any vehicle while transporting children during child care hours. The policy must also state if anyone in the program smokes or vapes at the program outside of child care hours;

(25) A written policy prohibiting the use of alcohol and drugs that includes, but is not limited to the following;

(i) prohibits the license holder, employees, subcontractors, and volunteers, when directly responsible for persons served by the program, from abusing prescription medication or being in any manner under the influence of a chemical that impairs the individual's ability to provide services or care as required by section 245A.04, subdivision 1, paragraph (c);

(ii) prohibits the use of controlled substances as specified in chapter 152;

(iii) prohibits the use of alcohol and requiring alcohol be kept inaccessible to children;

(iv) prohibits abusing or using to the extent that the use or abuse has or may have a negative effect on the ability of the license holder or caregiver to give care; and

(v) prohibits abusing or using to the extent that the use or abuse is apparent during the hours the children are in care.

(26) A policy on parental access to the program that states an enrolled child's parent must be allowed access to the parent's child inside the program at any time while the child is in care;

(27) A policy on the use of video surveillance systems in the program, including the location of the cameras and who has access to the video feed or recordings, as applicable. The policy must state that video equipment or monitoring is not permitted in bathrooms or other private areas; and

(28) A policy about the presence of firearms at the residence in accordance with section 245J.23, subdivision 7.

Subd. 6. **Records for each child.** The license holder must obtain the following information from parents prior to admission of a child. The license holder must keep this information up-to-date and on file for each child. The information must be reviewed at least annually by the parent and updated as needed when information changes.

(a) The signed and completed admission and arrangement form documented in a manner prescribed by the commissioner must be on file in the license holder's program and contain the following information:

(1) full name and birthdate of the child;

(2) full name of parents;

(3) address, work address, email address, and telephone numbers where parents may be reached during program hours;

(4) name, address, and telephone numbers of physician, dentist, and hospital to be used for emergencies when parents cannot be reached;

(5) name, address, and telephone number of persons to be notified in case of emergency, when parents cannot be reached;

(6) names and contact information for all persons authorized to drop off or pick up the child from the program;

(7) enrollment dates;

(8) financial arrangements;

(9) insurance notification specified in section 245J.03, subdivision 5, paragraph (b), clause 23; and

(10) parental consent for video surveillance for allowing parents to monitor children in the program, as applicable.

(b) Special instructions or a plan from the parent must be obtained in writing and followed about these topics, as applicable:

(1) toilet training, eating, or sleeping;

(2) medical or health needs;

(3) information about any known allergy from the child's parent. The license holder must maintain current allergy information in each child's record; and

(4) developmental, behavioral, cultural, social emotional information, or any other relevant information.

(c) Immunization records must be kept in accordance with section 121A.15. The license holder must request, update, and keep on file the dates of immunizations received for each child prior to enrollment and updated as follows:

(1) for an infant, every six months;

(2) for a toddler, annually;

(3) for a preschool child, every 18 months; and

(4) for a school-age child, every three years.

(d) Signed written consent must be obtained in advance from the parent so the license holder can obtain emergency medical care or treatment. The consent may be used if the parent cannot be reached or is delayed in arriving.

(e) Written permission to transport children must be obtained from parents if the license holder will be transporting a child.

(f) A license holder must release a child from care only to a parent or other person authorized in writing by the parent. The information must be reviewed at least annually by the parent and updated as needed when information changes.

245J.16 Children with Special Health Care Needs or Disabilities

Subdivision 1. **Children with special health care needs or disabilities.** For children with disabilities who require therapy, additional behavior guidance, or programming, or children with alternative accommodations, the parents, physician, or therapist must provide written instructions to the license holder. The license holder must follow the written instructions.

(a) "Child with special health care needs or disabilities" for purposes of this subdivision means a child of child care age who:

(1) has developmental disabilities or is otherwise eligible for case management as specified in Minnesota Rules, parts 9525.0004 to 9525.0036; or

(2) has been identified by the local school district as a child with a disability as specified in section 125A.02, subdivision 1; or

(3) has been determined by another person licensed to identify disabling conditions as having a special need relating to physical, social, or emotional development.

(b) All activities should be designed to include all children unless a specific medical contraindication exists, or an exclusion is otherwise noted in the child's individual child care plan.

(c) The individual child care plan required under this subdivision must meet the following requirements:

(1) When a license holder enrolls a child with special needs or a special need is identified, the license holder must ensure that an individual child care plan is developed with consultation by the parent.

(2) When developing the individual child care plan, the license holder must, to the best of their ability, coordinate with the child's primary care provider, any authorized service coordinator, any provider of intervention services, the child's parent, and the caregiver. If the license holder is unable to coordinate with any of the individuals in this subdivision, the license holder shall document the attempt to coordinate in the individual child care plan.

(3) The license holder must ensure that all other caregivers who interact with the child are trained on and follow the individual child care plan prior to interacting with the child. Documentation of caregiver training must be kept at the program.

(4) At least annually, the individual child care plan must be reviewed with the parent and updated as needed. The updated individual child care plan must be signed and dated by the parent and the license holder.

(5) If the child has developmental disabilities or is otherwise eligible for case management as specified in subdivision 1, paragraph (a), the individual child care plan must be coordinated with the child's individual service plan developed under Minnesota Rules, parts 9525.0004 to 9525.0036.

(6) Parents must provide written consent for the individual child care plan before implementation for the child. The individual child care plan must be signed and dated by the parent and the license holder. The individual child care plan must be kept in the child's file at the program.

(d) Before enrolling a child for care, the license holder must obtain documentation of any known allergy on a form prescribed by the commissioner, readily available to all caregivers, and reviewed annually by the license holder and each caregiver or upon changes.

(1) If a child has a known allergy, the license holder must maintain current information about the allergy in the child's record and follow the allergy and asthma action plan or emergency care plan signed by a physician including the following:

(i) description of the allergy;

(ii) specific triggers and avoidance techniques;

(iii) symptoms of an allergic reaction;

(iv) procedures for responding to an allergic reaction, including medication to be administered in an emergency situation and dosages; and

(2) The license holder must call emergency medical services when epinephrine is administered to a child in the license holder's care.

(3) The license holder must contact the child's parent immediately after any instance of exposure or allergic reaction.

(e) The license holder must ensure that all caregivers receive any training required by the child's individual child care plan.

Subd. 2. **Nondiscrimination.** A caregiver is prohibited from discriminating in relation to enrollment in their program based on race, color, creed, religion, national origin, sex, gender identity, marital status, disability, status regarding public assistance, sexual orientation, or familial status.

245J.17 Activities and Equipment

Subdivision 1. **General activities.** Child care activities must provide for the physical, intellectual, emotional, and social development of the child. The environment must facilitate the implementation of the activities.

(a) Activities must:

(1) Be scheduled indoors and outdoors weather permitting daily.

(2) When determining if the weather permits outdoor play, defer to weather advisory notifications, including air quality emergencies, provided by local weather experts or a local or state authority on air quality or public health.

(b) Outdoor activities must be scheduled as follows:

(1) For any infant over twelve months of age, toddler, preschool and school-age child in attendance;

(2) Indoor gross motor play such as climbing, jumping, running, riding wheel toys, yoga, other physical fitness or music and movement on days when outdoor play is not provided;

(3) Be appropriate to the developmental stage and age of the child;

(4) Include active and quiet activity; and

(5) Include both license holder-directed and child-initiated activity.

Subd. 2. **Equipment.** The license holder must supply children in care with early learning materials, equipment and space that are age, developmentally and culturally appropriate. The quantity of equipment required is based on the number and ages of children in care.

(a) The license holder must have equipment sufficient in quantity that each child can be actively involved in an activity.

(b) For each age group of children in care, a license holder must supply a variety of materials that satisfy individual, developmental, and cultural needs.

(c) Early learning materials must be nonpoisonous and free of harmful chemicals and heavy metals, including lead, polyvinyl chloride (PVC): soft flexible plastic, polystyrene foam (Styrofoam), phthalates, and bisphenols: hard, inflexible, clear plastic.

- (d) Unless otherwise restricted by law, equipment may be new, used, commercial, or program made, as long as it is appropriate for the ages and developmental level of the children and activities for which it will be used.
- (e) Equipment must be used in accordance with manufacturer's instructions, safe, and in good repair.
- (f) The primary provider of care must provide developmentally appropriate play materials to be used as part of the daily schedule.

Subd. 3. **Newborn or infant activities.** The license holder must:

- (a) Remove each newborn or infant from their crib or playpen for all feedings. Newborn or Infants must be held or fed sitting up for bottled feedings. A bottle cannot be propped up for an infant.
- (b) Develop infant language and communication by responding to the newborn or infant's or attempts to communicate by mirroring similar sounds, sharing the child's focus of attention, talking to the newborn or infant, naming objects, and describing actions.
- (c) Provide freedom of movement indoors and outdoors to the newborn or infant during a large part of the waking day to the extent that safety and weather permits. The non-creeping child must spend part of each day outside of a piece of equipment including a crib or seat. The creeping newborn or infant must have freedom to explore outside of the crib or seat.
- (d) Allow newborns or infants to sit safely and comfortably, crawl, toddle, walk and play according to the newborn or infant's stage of development. Give the infant or newborn an opportunity to stimulate the senses by providing a variety of activities and objects to see, touch, feel, smell, hear, and taste.
- (e) Provide activities for the infant or newborn that develop the child's manipulative and fine motor skills.
- (f) Provide activities for self-awareness.
- (g) Provide activities for social-emotional skills.
- (h) Develop gross motor skills.
- (i) Allow each newborn or infant actively supervised tummy time to help develop muscles needed to roll over, sit up, crawl, strengthen neck and back muscles. Tummy time should occur throughout the day when the newborn or infant is awake. Tummy time means placing the newborn or infant in a nonrestrictive prone position, lying on their stomach when not in sleeping equipment.

Subd. 4. **Newborn or infant equipment.** The following minimum equipment is required:

- (a) an infant seat or high chair, as appropriate, for each infant in attendance;

(b) a crib, portable crib, or playpen with a mattress or pad which are in compliance with current Consumer Product Safety Commission and American Society for Testing Materials International safety standards. The license holder must maintain documentation onsite that the equipment used meets these requirements and provide it to the commissioner and parents as requested;

(c) Blocks and dramatic play equipment including, but not limited to:

- (1) Blocks of various sizes;
- (2) Soft dolls to grasp and squeeze;
- (3) Soft washable animals;
- (4) Play telephone;
- (5) Non-breakable mirror located at eye level for crawling infants;
- (6) Various pots and pans; and
- (7) Play materials that represent a diversity of cultural and ethnic groups.

(d) Books and literacy materials, including, but not limited to:

- (1) Board, cloth, or plastic books;
- (2) Simple story books with one picture per page;
- (3) Activity books; and
- (4) Pictures and books that reflect the different cultures and background of children and families served by the program.

(e) Gross motor activity equipment and areas, including but not limited to:

- (1) Small push and pull toys;
- (2) Riding toys;
- (3) Balls;
- (4) Use of equipment such as bouncers or swings limited to less than 30 minutes per day; and
- (5) Safe, open space in the room to encourage movement; extending arms and legs, sitting, rolling, crawling, and walking with supports.

(f) Fine motor activity materials, including but not limited to:

- (1) Rattles with different noises, shapes, colors, and textures;

(2) Easy fit together toys, such as large building block toy sets;

(3) Hanging items for infants to grasp or bat;

(4) Pop-up or activity boxes;

(5) Teething toys; and

(6) Soft toys to grasp.

Subd. 5. **Toddler activities.** The **license holder** must:

(a) Provide the toddler with freedom of movement and freedom to explore outside the crib or playpen and allow the toddler to comfortably sit, crawl, toddle, walk and play according to the toddler's stage of development;

(b) Talk to, listen to, and interact with the toddler to encourage language development;

(c) Provide the toddler with large muscle activities and activities which develop the child's small muscles and manipulative skills;

(d) Develop and stimulate learning by reading stories to the child or looking at picture books together;

(e) Give the toddler opportunities to stimulate the senses by providing a variety of age-appropriate activities and objects to see, touch, feel, smell, hear, and taste; and

(f) Provide social and emotional development activities including imaginative play with puppets, clothes, or other toys, singing, dancing, or doing a job together, such as clean up time.

Subd. 6. **Toddler equipment.** The following minimum equipment is required:

(a) Each toddler must be provided with a clean and separate sleeping equipment such as a mat, crib, cot, bed, sofa, or sleeping bag that is cleaned and maintained as required in section 245J.2, subdivision 4, paragraph (b), clauses (10) and (11) and section 245J.23, subdivision 11.

(b) Blocks and dramatic play equipment including at least 3 of each of the following:

(1) Block sets (with 10 blocks each) that are different in weight, size, and shape;

(2) Block accessories such as, cars and trucks, road signs, or garages;

(3) Play furniture such as kitchen, woodworking bench or doll furnishings;

(4) Puppets or dolls;

(5) Play telephone;

(6) Toy people such as different races, genders, and ages

(7) common animals;

(8) Play materials representing a diversity of cultural or ethnic groups;

(9) Play kitchen and housekeeping materials such as pots and pans, dishes, and food; and

(10) Simple dress-up clothing such as washable caps, handbags, and shirts.

(c) Books and literacy materials including at least five books representing a mix of the following:

(1) Multicultural books reflecting diverse races and cultures;

(2) Picture books;

(3) Books about routines, such as eating and sleeping;

(4) Books about familiar objects used at program or at child care;

(5) Books with rhymes and repetition of phrases; and

(6) Concept books, such as nature and science.

(d) Fine motor, math and science materials including at least five of each the following:

(1) Nesting cups;

(2) Puzzles with single or few pieces that have knobs for easy grasping;

(3) Bead mazes;

(4) Large watercolor markers

(5) Interlocking blocks or beads to string;

(6) Non-toxic finger paints; and

(7) Lacing toys or cards with simple shapes.

(e) Music, movement, and art activity materials, including but not limited to:

(1) At least one musical instrument per child;

(2) CDs, records, or tapes;

(3) Toys that make noise;

(4) Large non-toxic crayons, washable non-toxic markers, large pencils, colored and white paper;

(5) Modeling clay or play dough and rolling pin or small plastic utensils;

(6) Collage materials which are safe and blunt scissors, left and right-handed; and

(7) Non-toxic tempera or finger paints, paint brushes, and smocks.

Subd. 7. **Preschooler activities.** The license holder must:

(a) Encourage conversation between the child and other children and adults;

(b) Provide opportunity to play near and with other children; provide time and space for individual and group play; allow for quiet times to talk or rest; allow for unplanned time and individual play time;

(c) Foster understanding of personal and peer feelings and actions and allow for the constructive release of feelings and anger through discussion or play;

(d) Give assistance in toileting and provide time to carry out self-help skills and provide opportunity to be responsible for activities like putting away play equipment and helping around the house;

(e) Provide opportunity for each child to make decisions about daily activities and to take credit for the consequences of decisions;

(f) Provide time and areas for age-appropriate large muscle play;

(g) Provide learning, small muscle, manipulative, creative or sensory activities; and

(h) Read stories, look at books together, and talk about new words and ideas with the child.

Subd. 8. **Preschooler equipment.** The following minimum equipment is required:

(a) Each preschooler must be provided with a mat, bed, cot, sofa, or sleeping bag that is clean and maintained as required in section 245J.22, subdivision 4, paragraph (b), clauses (10) and (11) and section 245J.23, subdivision 11.

(b) Blocks and dramatic play equipment including at least three of each of the following:

(1) Block sets with 20 blocks each that are different in weight, size, and shape;

(2) Block accessories such as, cars and trucks, road signs, or garages;

(3) Play furniture such as kitchen, woodworking bench with tools or doll furnishings;

(4) Puppets or dolls;

(5) Play telephone;

(6) Toy people such as different races, genders, and ages

(7) common animals;

(8) Play materials representing a diversity of cultural or ethnic groups;

(9) Play kitchen and housekeeping materials such as pots and pans, dishes, and food; and

(10) A variety of dress-up clothing in an amount to allow three or more children to use the items simultaneously.

(c) Books and literacy materials including the following:

(1) A book for each child in care;

(2) A variety of developmentally appropriate books in good condition without torn or missing pages or covers;

(3) Pictures and books reflecting different cultures, and backgrounds of children and families served by the program;

(4) Concept books teaching opposites, including but not limited to, up-down, in-out, same-different, cause-effect; and

(5) At least five other books representing a mix of the following:

(i) Multicultural books reflecting diverse race and cultures;

(ii) Bilingual books;

(iii) Books reflecting diverse abilities;

(iv) Fictional stories;

(v) Books with rhymes and repetition of phrases;

(vi) Concept books about math, nature, or science;

(vii) Books about problem solving or sharing; and

(viii) Books with familiar objects used at program or at child care.

(d) Fine motor materials including at least three of each the following:

(1) Manipulative toys such as beads and strings, pegs with peg boards, nuts and bolts, toy train tracks, counters, and sorting containers;

(2) Puzzles, that are not missing any pieces, with different numbers and sizes of pieces;

(3) Interlocking blocks, blocks that fit together, magnetic blocks; and

(4) Shape sorters.

(e) Math materials including at least three of each the following:

(1) Collections of objects to count such as play money, buttons, or pony beads;

(2) Comparison activity materials such as nested cups, abacus, dominoes, or playing cards;

(3) Number recognition games and activities such as clocks, calendar, or number puzzles;

(4) Shape recognition activities such as matching cards or magnetic shapes; and

(5) Tools for measuring such as balance, tape measure, ruler, scale, or measuring cups.

(f) Science Materials including at least three of each of the following:

(1) Collection of natural objects, such as leaves or rocks;

(2) Living things such as plants or animals;

(3) Nature and science activity area, such as sink and float, gardening, cooking; and

(4) Tools for investigating the environment such as magnets, magnifying glass, or binoculars;

(g) Music, movement, and art activity materials, including at least three of each of the following areas:

(1) Music and movement;

(i) Music played through a device manually or digitally;

(ii) Movement toys such as scarves, ribbons, parachutes; and

(iii) Musical instruments including at least one instrument per child.

(h) Art materials, including at least three of each of the following:

(1) Collage materials, such as yarn, felt, sticky tape, buttons, assorted paper, or feathers;

(2) Construction materials, such as modeling clay, popsicle sticks, pipe cleaners, glue sticks, blunt scissors, both left- and right-handed;

(3) Drawing materials including non-toxic washable markers, crayons, colored pencils or chalk, white and colored paper; and

(4) Painting materials such as easels, watercolors, tempera and finger paint, brushes, sponges, and smocks.

Subd. 9. School-age activities. The license holder must:

(a) provide opportunities for individual discussion about the happenings of the day and planning for activities;

(b) provide space, opportunity, and materials or equipment for games, activities, or sports using the whole body, outdoors, weather permitting;

(c) provide space and opportunity for individual rest and quiet time;

(d) allow increased freedom as the child demonstrates increased responsibility;

(e) provide opportunities for group experiences with other children;

(f) provide opportunities to develop or expand self-help skills or real-life experiences; and

(g) provide opportunities and materials for creative and dramatic activity, arts and crafts, or field trips.

Subd. 10. Written permissions. Written permission must be obtained from the parent to allow a school-age child in care to participate in activities away from the program.

245J.18 Physical Environment and Space Requirements

Subdivision 1. **Indoor space.** The licensed capacity of the child care program **must** be limited by the amount of usable indoor space available to children. A minimum of 35 square feet of usable indoor space is required per child.

(a) Bathrooms, closets, space occupied by major appliances, and other space not used by children may not be counted as usable space. Space occupied by adult furniture, if it is used by children, may be counted as usable indoor space.

(b) Usable indoor space may include a basement if it has been inspected and approved by a fire marshal, is free of hazards, and meets the requirement specified in subdivision 3.

Subd. 2. **Outdoor learning environment and play space.**

(a) There must be an outdoor play space of at least 50 square feet per child in attendance, adjacent to the **program**, for regular use, or a park, playground, or play space within 1,500 feet of the **program**.

(b) Outdoor play space must have shaded areas.

(c) The license holder and caregivers must comply with the following outdoor play supervision requirements.

(1) The license holder or caregiver shall remain outdoors with infants, toddlers, and preschoolers at all times.

(2) School-age children may be permitted in the approved outdoor play space on the premises without the license holder or caregiver if both of the following occur:

(i) The children are not engaged in higher risk activities such as but not limited to swimming, activities with animals or using equipment with motors or moving parts.

(ii) The license holder or caregiver remains accessible to provide assistance when needed.

(3) When the outdoor play space is not on the premises, the license holder or caregiver shall accompany and supervise all children in transit and at the outdoor play space.

(d) Playgrounds and outdoor play areas must be protected from traffic and nearby hazards by a continuous fence in good condition with functioning gates or a continuous natural barrier, or a combination of fence and naturally occurring or landscaping barrier.

(1) Examples of naturally occurring or landscaping barriers include, but are not limited to space, dense hedges, walls, permanently anchored dividers, or partitions.

(2) The fence or natural barrier must ensure that children are not able to leave the outdoor play area unsupervised.

(3) Gates must be equipped with self-closing and positive self-latching closure mechanisms. The latch or securing device should be high enough or of a type such that children cannot open it.

(4) The play area must be free of potential hazards including but not limited to debris, broken glass, toxic materials, cigarette butts, machinery, unlocked vehicles, feces, and sewage contaminants.

(e) The outdoor program space and equipment must be visually inspected prior to each use to ensure outdoor areas and equipment are free of hazards.

(f) Outdoor equipment, whether stationary or portable, must be safe and designed to meet the developmental needs of the age groups of children using the space.

(g) Equipment such as, but not limited to, climbing gyms, swings, and slides must:

(1) Be placed out of the path of the area's main traffic pattern;

(2) Be anchored or stable and have all parts in good working order and securely fastened;

(3) Have all climbing ropes anchored at both ends and not capable of looping back on themselves creating a loop with an interior perimeter of five inches or greater;

(4) Have s-shaped hooks that are closed to prevent the chain from slipping off of the hook and to prevent strangulation;

(5) Be free of rust, cracks, holes, splinters, sharp points, or edges, chipped or peeling paint, lead hazards, toxic substances, protruding bolts, or tripping hazards;

(6) Have no openings that are greater than three- and one-half inches, but less than nine inches to avoid entrapment of the head or other body parts;

(7) Have protective barriers on platforms that are 30 inches high or higher. A protective barrier means an enclosing device around an elevated platform that is intended to prevent both inadvertent and deliberate attempts to pass through the device;

(8) Be assembled, installed, and utilized according to manufacturer's guidelines;

(h) Outdoor play equipment designated for climbing, swinging, balancing, and sliding must have a fall zone of protective resilient material on the ground under and around the equipment. The fall zone must meet the guidelines under the Consumer Product Safety Commission. The material may be one of the following, but not limited to, washed pea gravel, mulch, sand, wood chips, engineered wood fiber, or shredded or recycled rubber mulch manufactured for this purpose.

- (1) Equipment must not be placed directly over concrete, asphalt, blacktop, dirt, rocks, or any other hard surface.
 - (2) Synthetic surfaces must follow manufacturer's guidelines for depth.
 - (3) All loose fill materials used for protective resilient surfacing must be raked, as needed to retain their proper distribution and depth. Foreign materials are to be removed prior to use by children.
 - (4) Use and maintain a minimum of six inches of protective resilient surfacing for play equipment less than four feet in height.
 - (5) Use and maintain a minimum depth of nine inches of loose-fill materials such as wood mulch/chips, engineered wood fiber , or shredded or recycled rubber mulch for equipment up to eight feet high; and nine inches of sand or pea gravel for equipment up to five feet high. The surfacing will also compact, displace, and settle, and should be periodically refilled to maintain at least a nine-inch depth.
 - (6) Loose fill materials must be contained by digging out around the perimeter of the playground or lining the perimeter with landscape edging.
- (i) The license holder must cover any bare soil around their child care facility with mulch, plantings or grass or test any bare soil for lead by an Environmental Protection Agency-recognized National Lead Laboratory Accreditation Laboratory .

Subd. 3. **Emergency escape routes.** At least one emergency escape route separate from the main exit from the space must be available in each room used for sleeping by anyone receiving licensed care, and a basement used for child care.

Subd. 4. **Portable Wading Pools.**

- (a) A portable wading pool as defined in section 144.1222 may not be used by a child at a family child care program unless the parent of the child has provided written consent.
- (b) The written consent must include a statement that the parent has received and read material provided by the Minnesota Department of Health - Wading Pool Safety for Parents related to the risk of disease transmission as well as other health risks associated with the use of portable wading pools.
- (c) Wading pools must be emptied daily.
- (d) The caregiver must supervise children at all times while a wading pool is in use and must be able to clearly see all parts of the wading area.
- (e) When not in use under the supervision of a caregiver, wading pools must be inaccessible to children.

Subd. 5. **Swimming pools.**

(a) This subdivision governs swimming pools located at family child care **programs**. This subdivision does not apply to portable wading pools or whirlpools located at family child care **programs**. For a license holder to be eligible to allow a child cared for at the family child care **program** to use the swimming pool located at the program, the license holder must not have had a licensing sanction under section **245A.07** or a correction order or conditional license under section **245A.06** relating to the supervision or health and safety of children during the prior 24 months, and must satisfy the following requirements:

- (1) notify the county agency before initial use of the swimming pool and annually;
- (2) obtain written consent from a child's **parent** allowing the child to use the swimming pool and renew the parent's written consent at least annually;
- (3) the written consent must include a statement that the parent has received and read materials provided by the Minnesota Department of Health related to the risk of disease transmission as well as other health risks associated with swimming pools;
- (4) the written consent must also include a statement that the department, Minnesota Department of Health, and county agency will not monitor or inspect the **license holder's physical swimming pool.**;
- (5) attend and successfully complete a swimming pool operator training course once every five years. Acceptable training courses **are one of the following**:
 - (i) the National Swimming Pool Foundation Certified Pool Operator course;
 - (ii) the National Spa and Pool Institute Tech I and Tech II courses, both are required; or
 - (iii) the National Recreation and Park Association Aquatic Facility Operator course.
- (6) require a caregiver trained in first aid and adult and child cardiopulmonary resuscitation to **always** supervise and be present at the swimming pool children are using the swimming pool;
- (7) toilet all potty-trained children before they enter the swimming pool;
- (8) require all children who are not potty-trained to wear swim diapers while in the swimming pool;
- (9) if fecal material enters the swimming pool water, add three times the normal shock treatment to the pool water to raise the chlorine level to at least 20 parts per million, and close the pool to swimming for the 24 hours following the entrance of fecal material into the water or until the

water pH and disinfectant concentration levels have returned to the standards specified in section (12) whichever is later;

(10) prevent any person from entering the swimming pool who has an open wound or any person who has or is suspected of having a communicable disease;

(11) maintain the swimming pool water at a pH of not less than 7.2 and not more than 8.0, maintain the disinfectant concentration between two and five parts per million for chlorine or between 2.3 and 4.5 parts per million for bromine, and maintain a daily record of the swimming pool's operation with pH and disinfectant concentration readings on days when children cared for at the family child care program are present;

(12) have a disinfectant feeder or feeders;

(13) have a recirculation system that will clarify and disinfect the swimming pool volume of water in ten hours or less;

(14) maintain the swimming pool's water clarity so that an object on the pool floor at the pool's deepest point is easily visible;

(15) comply with the provisions in section 144.1222, subdivisions 1c and 1d;

(16) have in place and enforce written safety rules and swimming pool policies;

(17) have in place at all times a safety rope that divides the shallow and deep portions of the swimming pool;

(18) maintain compliance with any existing local ordinances regarding swimming pool installation, decks, and fencing;

(19) maintain a water temperature of not more than 104 degrees Fahrenheit and not less than 70 degrees Fahrenheit; and

(20) for lifesaving equipment, have a United States Coast Guard-approved life ring attached to a rope, an exit ladder, and a shepherd's hook available at all times to the caregiver supervising the swimming pool.

(21) The requirements of clauses (2), (15), and (17) above only apply at times when children cared for at the family child care program are present.

Subd. 6. **Water hazards.**

(a) Swimming and wading pools, beaches, or other bodies of water on or adjacent to the site of the program must be inaccessible to children except during periods of supervised use.

(b) All water hazards, such as inground or above ground swimming pools, stationary wading pools, fish ponds, and water retention or detention basins on the site of the program must be enclosed with a permanent fence, wall, building wall, other physical barrier, or combination thereof that is at least four to six feet in height. All swimming pools need to be covered when not in use. A house exterior wall can constitute one side of a fence if the wall has no openings capable of providing direct access to the pool, including but not limited to doors or windows.

(c) When children use a swimming pool, as defined in Minnesota Rules, chapter 4717 or beach, an adult caregiver who is trained in first aid and CPR must be present. The program may not allow a child in care to use a swimming pool or beach without an adult caregiver trained in first aid and CPR present.

(d) With the exception of water tables designed for children to play in only with their hands, bodies of water must be separated from the play area by a fence or other physical barrier that prevents children from accessing the water. The house door alone is not a sufficient barrier.

Subd. 7. Water Play.

(a) Splash pads or sprinklers that spray or jet water on the users and do not have standing water do not need parental permission for use by children.

(b) Splash pads or sprinklers that have a standing water component are considered wading pools and required to meet the requirements of subdivision 4.

Subd. 8. Door to attached garage.

(a) If there is an opening between an attached garage and a family child care residence, there must be a door that is:

- (1) a solid wood bonded core door at least 1-3/8 inch thick;
- (2) a steel insulated door if the door is at least 1-3/8 inches thick; or
- (3) a door with a fire protection rating of 20 minutes.

(b) The separation wall on the garage side between the residence and garage must consist of ½-inch-thick gypsum wallboard or its equivalent. .

Subd. 9. Ventilation, heating, and cooling systems. The following requirements must be met:

(a) For initial licensure, the heating, ventilation, and air conditioning (HVAC) system must be inspected by a licensed qualified contractor and operated according to the manufacturer's instructions.

(b) For renewal licensure, the heating, ventilation, and air conditioning (HVAC) system must be inspected by a licensed qualified contractor within twelve months prior to the filing of renewal application and maintained on an annual schedule.

(c) Inspections by licensed qualified heating contractors of the facility heating and cooling system must be obtained if alterations or additions to the heating and cooling system are made.

(d) Stove and heater locations must not block escape in case of a fire.

(e) Gas, coal, wood, kerosene, or oil heaters must be vented to the outside in accordance with the State Building Code.

(f) Items that can be ignited and support combustion, including but not limited to plastic, fabric, and wood products must not be located within 18 inches of a gas or fuel-oil heater or furnace. If a license holder produces manufacturer instructions listing a smaller distance, then the manufacturer instructions control the distance combustible items must be from gas, fuel-oil, or solid-fuel burning heaters or furnaces.

(g) Whenever in use, fireplaces, wood-burning stoves, solid fuel appliances, space heaters, steam radiators, and other potentially hot surfaces, such as steam pipes, must be protected by guards or protective covering to keep hands away, to prevent burns, and prevent fires.

(h) All fireplaces, wood-burning stoves, space heaters, steam radiators, and furnaces must be installed according to the State Building Code.

(i) The furnace, hot water heater, and workshop area must be inaccessible to children. Separation may be by a door, partition, or gate. There must be allowance for air circulation to the furnace.

(j) Ventilation of usable space must meet the requirements of the State Building Code.

(k) Outside doors and windows used for ventilation in summer months must be screened when biting insects are prevalent.

(l) The source of harmful and unpleasant odors including urine and pet waste must be removed to the extent possible by removing the source of the odor or by removing odors through cleaning and ventilation.

(m) The use of the following is prohibited:

(1) Aerosol sprays;

(2) Incense;

(3) Moth crystals or moth balls;

(4) Toilet or urinal deodorizer blocks;

(5) Chemical air fresheners; and

(6) Scent-enhanced products, including but not limited to, candles, essential oils, and spray and plug-in air fresheners.

Subd. 10. **Temperature.** A draft-free temperature of 68°F to 82°F must be maintained at thirty to fifty percent relative humidity. All rooms that children use must be heated and cooled to maintain the required temperatures and humidity.

Subd. 11. **Sewage disposal.** Day care residences must have toilet facilities and sewage disposal systems that conform to the State Building Code or local septic system ordinances.

(a) The toilets must flush thoroughly.

(b) Outdoor toilets, including compostable toilets, are permissible in accordance with local septic system ordinances.

Subd. 12. **Construction, remodeling.** During construction or remodeling, children must not have access to dangerous construction or remodeling areas within or around the residence.

Subd. 13. **Interior walls and ceilings.** The interior walls and ceilings within the residence, as well as corridors, stairways, and lobbies must have a flame spread rating of 200 or less.

Subd. 14. **Electrical services.** The following electrical guidelines must be met:

(a) all electric receptacles accessible to children who are under school age must be tamper-proof or shielded when not in use;

(b) all major electrical appliances must be properly installed, grounded in accordance with the state electric code, and in good working order;

(c) extension cords must not be used as a substitute for permanent wiring; extension cords and flexible cords must not be affixed to structures, extended through walls, ceilings, floors, under doors or floor coverings, nor be subject to environmental damage or physical impact; and

(d) electrical wiring must be sized to provide for the load and be in good repair.

Subd. 15. **Fire extinguisher.** A portable, operational, multipurpose, dry chemical fire extinguisher with a minimum 2 A 10 BC rating must be located near the exit door of cooking areas of the residence at all times. The fire extinguisher must be serviced annually by a qualified inspector and evidence of annual service documented. All caregivers must know how to properly use the fire extinguisher.

Subd. 16. **Carbon monoxide and smoke alarms.**

(a) All programs must have an approved and operational carbon monoxide alarm installed within ten feet of each room used for sleeping children in care.

(b) Smoke alarms must be properly installed and maintained on all levels including basements and in hallways outside rooms used for sleeping children in **care**. Smoke alarms are not required in crawl spaces and uninhabitable attics.

(c) In programs with construction that began on or after March 31, 2020, smoke alarms must be installed and maintained in each room used **for children in care to sleep**.

Subd. 17. **Infant and newborn sleeping space.** There must be a safe sleeping space for each infant and newborn in care.

(a) There must be a safe sleeping space for each infant and newborn in care.

(b) Newborns and infants must not sleep anywhere other than an **approved crib or playpen**.

(c) **Each playpen shall meet the requirements of section 245J.17, subdivision 4, paragraph (b),** be of sturdy construction and have:

(1) **Closely spaced bars with corner posts that do not exceed one sixteenth of an inch above the top of the end panel.**

(2) **Spaces between the bars of the playpen and between the bars and end panels of the playpen shall not exceed two and three-eighths inches.**

(3) Playpen mesh openings shall be less than one quarter inch.

Subd. 18. **Stairways.** All stairways must meet the following conditions.

(a) Stairways of **four** or more steps must have handrails on at least one side.

(b) Any open area between the handrail and stair tread must be enclosed with a protective guardrail as specified in the State Building Code. **At open risers, opening located more than 30 inches or 762 millimeters as measured vertically to the floor or grade below must not permit the passage of a sphere four inches or 102 millimeters in diameter.**

(c) Gates **must** be used when children aged six to 18 months are in care.

(d) Stairways must be well-lit, in good repair, and free of clutter and obstructions.

Subd. 19. **Decks.** Decks, balconies, or lofts used by children more than 30 inches above the ground or floor must be surrounded by a protective guardrail and be constructed in accordance with the State Building Code. Wooden decks must be free of splinters and coated with wood preservative, paint, or constructed with treated wood.

Subd. 20. **Locks and latches.** Door locks and latches must meet the following guidelines:

- (a) A door latch on a closet or other space that a child could be confined must be made so that children can open the door from inside the closet;
- (b) Every **interior door** lock must permit opening of the locked door from the outside and the opening device must be readily accessible to all caregivers;
- (c) Double cylinder locks, where a key is required on both sides, on exit doors are prohibited; and
- (d) **Installation of locks or door chimes may not be used in place of supervision.**

Subd. 21. **Tobacco products, vaping, drugs, and alcohol use prohibitions.**

- (a) Smoking is prohibited in a licensed family child care and licensed group family child care **program** during hours of operation under section 144.414, subdivision 2.
- (b) **The use of tobacco products, vaping, electronic cigarettes, alcohol, and illegal or recreational drugs on the premises of both indoor and outdoor licensed program environments, and in any vehicles used by the program is prohibited during hours of operation.**
- (c) **The license holder must disclose to parents of children cared for on the premises if anyone in the program smokes or vapes outside of child care hours. Disclosure must include posting on the premises a conspicuous written notice and verbally providing notice to parents .**
- (d) **No license holder or caregiver shall be under the influence of any substance that impairs the individual's ability to supervise children or perform the individual's duties.**

245J.19 Crib Safety

Subdivision 1. **Documentation requirements for license holders.** All license holders must follow the crib safety requirements in Minnesota Statutes, [section 245A.146](#).

Subd. 2. **Commissioner inspection.** During routine licensing inspections, and when investigating complaints regarding alleged violations of this section, the commissioner must review the license holder's documentation required under subdivision 1.

245J.20 Infant Sleep Supervision Requirements

Subdivision 1. **Infant safe sleep.** All license holders must follow the requirements in 245A.1435.

Subd. 2. **Monitoring sleeping newborns and infants.**

(a) Caregivers must provide supervision as follows:

(1) Caregivers must provide direct supervision as defined in section 245J.01, subdivision 38 when a newborn or infant is placed in a crib or playpen to sleep.

(2) When a newborn or infant is placed in a crib or playpen to sleep the caregiver must conduct in-person checks every 15 minutes.

(3) Infant monitors must be used when infants are sleeping in a separate room out of the direct supervision of the primary caregiver. Caregiver personal cell phones are not permitted to be used as an infant monitor. When in use, infant monitors must meet the following conditions:

(i) the sound monitoring equipment must be able to pick up the sounds of all infants in the separate room;

(ii) the receiver of the sound monitoring equipment must be actively monitored by the primary provider or caregiver at all times; and

(iv) sound monitoring equipment must be checked daily prior to use to ensure it is working correctly. If the sound equipment is not functioning, infants must be slept in the same room as the caregiver.

(4) If music or other sounds are played in the infant sleep area, the music or other sound equipment must not be played at a loud volume that would prevent infants from being heard by the caregiver(s). Music or sound equipment must not be placed under a crib or within three feet of the sleeping infant. Music or sound equipment is not permitted in a separate sleeping room that is out of the direct supervision of the caregiver. If fans are used to create sound, these standards apply.

(5) The use of mirrors to view sleeping infants in separate rooms does not meet the supervision requirements.

245J.21 Health and Safety Requirements

Subdivision 1. **Handling and disposal of bodily fluids.** The **license holder** must comply with the following procedures for safely handling and disposing of bodily fluids:

- (a) surfaces that come in contact with potentially infectious bodily fluids, including blood and vomit, must be cleaned, and disinfected as described in section 245J.22, subdivision 3;
- (b) blood-contaminated material must be disposed of in a plastic bag with a secure tie;
- (c) sharp items used for a child must be disposed of in a sharps container. The sharps container must be stored out of reach of a child; and
- (d) the **license holder** must have the following bodily fluid disposal supplies available: disposable gloves, disposal bags, and eye protection.

Subd. 2. **Emergency preparedness plan.**

(a) A license holder must have a written emergency preparedness plan for emergencies that require evacuation, sheltering, or other protection of children, such as fire, natural disaster, intruder, or other threatening situation that may pose a health or safety hazard to children. The plan must be written on a form developed by the commissioner and updated at least annually. The plan must include:

- (1) procedures for an evacuation, relocation, shelter-in-place, or lockdown;
- (2) a designated relocation site and evacuation route;
- (3) procedures for notifying a child's parent of the evacuation, shelter-in-place, or lockdown, including procedures for reunification with families;
- (4) accommodations for a child with a disability or a chronic medical condition;
- (5) procedures for storing a child's medically necessary medicine that facilitate easy removal during an evacuation or relocation;
- (6) procedures for continuing operations in the period during and after a crisis;
- (7) procedures for communicating with local emergency management officials, law enforcement officials, or other appropriate state or local authorities; and
- (8) accommodations for infants and toddlers.

(b) The license holder must train caregivers before the caregiver provides care and at least annually on the emergency preparedness plan and document **on the emergency preparedness plan** the completion of this training.

(c) The emergency preparedness plan must be available for review by the Department during inspections.

Subd. 3. **Emergencies.** The license holder must be prepared for emergencies.

- (a) An operable telephone must be located within the program. A license holder may use a cellular telephone if the cellular telephone is sufficiently charged for use at all times.
- (b) The emergency phone numbers of the parents and child's physician and dentist must be readily available within the program and taken on emergency drills and evacuations.
- (c) For severe storms and tornadoes, the license holder must have a designated area that children must go to for shelter, an operable battery flashlight, and access to a portable radio or TV available. The license holder must listen to the Emergency Alert System or local alerting systems for current emergency information and instructions.
- (d) The license holder must have a written fire escape plan. The plan must specify:
 - (1) address of the program;
 - (2) emergency phone numbers;
 - (3) a designated place to meet for roll call;
 - (4) smoke detector and fire extinguisher locations;
 - (5) plans for monthly fire and tornado drill sessions;
 - (6) escape routes to the outside from all levels used by children. In buildings with three or more dwelling units, enclosed exit stairs must be indicated.
- (e) The license holder must keep a log of monthly fire and storm drills. The log must include the date of the drill, the time of day the drill occurred, name of the caregiver who conducted the drill and the length of time to evacuate.

Subd. 4. **Transporting children.** Children shall be transported only in motor vehicles as defined in section 168.002, subdivision 18 and the motor vehicle must be permanently enclosed. When transporting children in a motor vehicle other than a bus or school bus operated by a common carrier, the following provisions for their safety must be made:

- (a) A license holder must ensure compliance with all seat belt and child passenger restraint system requirements under sections 169.685 and 169.86.
- (b) A child may be transported only if the child is fastened in a safety seat, seat belt, or harness appropriate to the weight of the child and the restraint is installed and used in accordance with the manufacturer's instructions.

(c) A child under the age of four may be transported only if the child is securely fastened in a child passenger restraint system **which** meets the federal motor vehicle safety standards contained in Code of Federal Regulations, subtitle B, chapter V, part 571.

(d) Any vehicle operated by the **license holder** for the transportation of children must be licensed in accordance with the laws of the state and the driver must hold a current, valid **motor vehicle s** license. A copy of the driver's license must be kept at the program.

(e) Written permission to transport children must be obtained from parents **prior to transport**.

(f) No child is permitted to remain unattended in any vehicle.

245J.22 Cleaning, Sanitizing, and Disinfecting

Subdivision 1. Definitions.

(a) **Cleaning.** “Cleaning” means the mechanical process using fragrance-free soap or detergent and water to physically remove dirt, debris, and many germs. It also removes invisible debris that interferes with disinfection.

(b) **Sanitizing.** “Sanitizing” means the chemical or heating process of reducing the number of disease-causing germs on cleaned surfaces to a safe level.

(c) **Disinfecting.** “Disinfecting” means the chemical process that uses specific products to destroy harmful germs on cleaned environmental surfaces.

(d) **High hazard body fluid.** “High hazard body fluid” means urine, feces, vomit, blood, and other body fluids with blood present.

Subd. 2. Sanitizers. Sanitizers must meet the following requirements:

(a) License holders must use sanitizers with the signal word Caution rather than Warning on the product label and a zero rating on the Hazardous Materials Identification System health rating scale. The manufacturer’s label or instructions must state that the disinfectant is effective with a ten minute or less contact time;

(b) The chemical must have an Environmental Protection Agency registration number and designation as a food contact surface sanitizer, and be used in accordance with labeled instructions, including:

(1) Concentration;

(2) Contact time;

(3) Method; and

(4) Surfaces

(c) The sanitizer must not require the final rinse step.

(d) Sanitizers must be used on surfaces that commonly come into contact with food, hands, the mouth, eyes, nose, and exposed skin of children and staff;

(e) Sanitizers must not be used prior to or in place of cleaning compounds which are intended to remove soil from surfaces, such as soaps or detergents;

(f) For a community-based child care program operating in a nonresidential space, the frequency of sanitizer use for food contact surfaces must be in accordance with the requirements of Minnesota

Rules, chapter 4626. Toys used by preschool and older children must be washed, rinsed, and sanitized at least once a week and whenever visibly soiled;

(g) Toys that are placed in children's mouths or are otherwise contaminated by body fluids must be washed, rinsed, and sanitized prior to use by another child;

(h) For sanitizers requiring mixing, test kits must be used to verify the required concentration. Solutions must be tested upon mixing and daily. The required concentration for a bleach disinfectant solution is about 100 parts per million (ppm);

(i) Sanitizers obtained as ready-to-use solutions and used in accordance with the manufacturer's labeled instructions, do not require the use of test strips; and

(j) Nothing in this section prohibits the use of a dishwashing machine, clothes washing machine, or clothes dryer, for sanitization of toys or other program materials.

Subd. 3. **Disinfectants.** Disinfectants must meet the following requirements:

(a) License holders should use disinfectants certified by the Environmental Protection Agency's Design for the Environment;

(b) The chemical must be effective against viruses;

(c) The chemical must be used in accordance with labeled instructions, including:

(1) Concentration;

(2) Contact time;

(3) Method; and

(4) Surfaces.

(d) Disinfectants must be used on surfaces that are commonly contaminated with high hazard body fluids, such as but not limited to door handles, toilet seat inserts, diaper changing areas and tables, diaper pails, and surfaces that have been in contact with high hazard body fluid;

(e) Disinfectants must not be used prior to or in place of cleaning compounds which are intended to remove soil from surfaces, such as soaps, detergent;

(f) Toys, food, or body contact surfaces that become contaminated with high hazard body fluids must be disinfected and then washed, rinsed, and sanitized before returned to use;

(g) Carpeting, rugs, and upholstery that have been contaminated by high hazard body fluids must be cleaned by removing all visible debris and treated through the use of a chemical or steam;

- (h) The frequency of disinfectant use must be in accordance with the requirements of this statute or immediately upon clean-up of or contact with high hazard bodily fluids;
- (i) Disinfectants, including household bleach, must be mixed, and used according to the manufacturer's labeled instructions, including concentration and contact time;
- (j) For disinfectants requiring mixing, test kits must be used to verify the required concentration. Solutions must be tested daily and upon mixing. The required concentration for a bleach disinfectant solution is between 800-850 parts per million; and
- (k) Disinfectants obtained as ready-to-use solutions and used in accordance with the manufacturer's labeled instructions, do not require the use of test strips.

Subd. 4. Cleaning frequency.

- (a) The indoor and outdoor space and equipment of the program must be clean.
- (b) A license holder must develop and follow a cleaning schedule that includes:
 - (1) Food preparation areas, tables and chairs, high chairs, and food service counters, must be cleaned and sanitized before and after each meal and snack with single use paper towels, one-time use wiping cloths, or microfiber cloths;
 - (2) Eating utensils, bottles, drinking equipment, and dishes, must be cleaned and sanitized prior to next use. If a parent is bringing a bottle from home, the bottle does not need to be cleaned by the license holder upon arrival;
 - (3) Pacifiers must be cleaned and sanitized after each use or may be reused by an individual child if they have been rinsed after each use and stored in a manner that prevents contamination. The pacifier must be cleaned and sanitized daily. If the pacifier is stored in a storage device or container, it must also be cleaned and sanitized daily;
 - (4) Appliances used to prepare food must be cleaned after each use and sanitized daily or more often as needed;
 - (5) Refrigerators must be cleaned and sanitized monthly or more often as needed;
 - (6) Freezers must be cleaned and sanitized quarterly or more often as needed;
 - (7) Toys must be cleaned and sanitized as follows:
 - (i) infant and toddler toys must be cleaned and sanitized at least daily or more often as needed;
 - (ii) all other toys must be cleaned and sanitized weekly or more often as needed; and

(ii) When a toy comes into contact with a child's mouth or bodily fluids, it must be removed from use until it can be cleaned and sanitized prior to reuse.

(8) Furniture and equipment must be cleaned monthly or more often as needed;

(9) Machine washable clothes provided by the program must be laundered as needed;

(10) Sleeping equipment must be:

(i) cleaned and sanitized after each use if used by more than one child; or

(ii) cleaned and sanitized weekly or more often as needed if assigned to only one child.

(11) Bedding must be:

(i) laundered and sanitized after each use if used by more than one child; or

(ii) laundered and sanitized weekly or more often as needed if assigned to only one child.

(12) The following is required of toileting areas:

(i) must be cleaned daily;

(ii) toilet training chairs must be emptied, washed with soap and water, and disinfected after each use; and

(iii) toilets and seats must be washed with soap and water and disinfected when soiled or at least daily.

(13) Garbage cans and receptacles must be emptied daily and cleaned and disinfected as needed;

(14) Floors must be cleaned by either sweeping with a damp mop or vacuuming at least once per day or more often as needed. Moisture resistant flooring must be cleaned at least once per day or more often as needed;

(15) Large area rugs or installed carpet must be cleaned at least once every six months, or when visible dirt or stains are present, using a carpet shampoo machine, steam cleaner, or other method that minimizes the exposure of children in care to pathogens and allergens; and

(16) Small area rugs must be shaken outdoors or vacuumed daily and laundered as needed.

245J.23 Health Policies

Subdivision 1. **Sanitation and cleanliness.** The program must be free from accumulations of dirt, food and beverage debris, rubbish, peeling paint, hazardous clutter, and pet waste.

Subd. 2. **Pets.** All pets housed within the indoor program space or that have contact with children must be maintained in good health and limited to dogs, cats, fish, guinea pigs, gerbils, rabbits, hamsters, rats, mice, and birds, if the birds are clear of chlamydia psittaci bacteria. The license holder must ensure that:

(a) All pets are properly housed, cared for, licensed, and inoculated. All local and state ordinances governing the keeping of animals must be followed and updated as required;

(b) Verification of license or compliance with local and state requirements and inoculations, for each pet requiring such license or inoculations, or regulated by local or state government must be on file at the facility. Rabies shots and tags must be current for all dogs and cats housed within the indoor program space;

(c) Parents are notified prior to admission of the presence of pets in the program and prior to the introduction of a new pet for children already enrolled in care; and

(d) Children handle animals only with adult supervision.

(e) Pet cages and enclosures and fish tanks are located and cleaned away from any food preparation, storage, or serving areas.

(f) All areas accessible to children are free of animal excrement, animal hair or feathers and kept free of offensive or unpleasant animal odors including urine and litter box odors.

(g) The parent of a child whose skin is broken by an animal bite or scratch are immediately notified of the injury.

(h) The agency must be immediately notified if anyone in the program has been bitten, including the parent or caregiver of a child.

(i) The agent of a community health board as authorized under section 145A.04 is immediately notified whenever a child in care is bitten by an animal. The notification must be given before any steps are taken to destroy the animal, and the license holder must take reasonable steps to confine the animal.

Subd. 3. **Pest control.** Effective measures must be taken to protect the program against vermin and insects.

(a) Chemicals for insect and rodent control must not be applied in areas accessible to children when children are present.

(b) Pest control steps must include:

(1) A license holder must take steps to prevent attracting pests.

(2) A pest found in the licensed space must be identified so the pest may be properly removed or exterminated.

(3) A license holder must document steps taken to remove or exterminate the pests if found in the licensed space.

(4) If pesticides are used, the license holder must notify the parents of enrolled children what pesticide will be applied and where it will be applied. License holders must have a policy stating what their pest control plans are.

(5) Only approved, U.S. Environmental Protection Agency registered insecticides, rodenticides, and herbicides may be used. Application must strictly follow all label instructions. Baits and traps must be used instead of spray treatments.

(6) A license holder must have a pest control policy that emphasizes prevention and natural, nonchemical, low-toxicity methods where least-toxic pesticides or herbicides are used as a last resort.

Subd. 4. **Rubbish.** Indoor and outdoor garbage and rubbish containers must not be accessible to infants and toddlers. All indoor garbage must be removed from indoor space as needed or at least daily.

Subd. 5. **Toxic and hazardous materials.**

(a) Toxic and hazardous materials such as chemicals or similar items that are likely or capable to cause injury, illness, or death when ingested, inhaled, absorbed, or comes into contact with a child's skin, eyes, mouth, or mucous membranes must be inaccessible to children.

(b) All medicines, vitamins, chemicals, detergents, poisonous plants, alcoholic beverages, CBG, THC controlled substances, and other toxic substances must be inaccessible to children. They must be stored away from food products.

(c) Equipment or toys which are mouthed or chewed must be free of lead-based paint. Toys and equipment with chipped, cracked, or peeling paint must be removed from the program.

(d) The license holder must document and check the U.S. Consumer Product Safety Commission's monthly for warnings of potential lead exposure to children and recalls of play equipment, toys,

jewelry used for play, imported vinyl mini-blinds, and bibs, lunchboxes, and other food contact products. If items are found to have lead or be recalled, they must be removed immediately.

(e) Knives or other sharp objects, lighters, matches, plastic bags, and other potential hazards must be inaccessible to children. The use of potentially hazardous materials and tools must be supervised.

Subd 6. Use and storage of art and science materials.

(a) Art and science materials must be used safely. Children using potentially toxic materials must be directly supervised by a caregiver.

(b) The use or storage of carcinogenic materials; toxic organic solvents; aerosol products; and materials with heavy metals such as lead, mercury, or cadmium are prohibited.

Subd. 7. Firearms. The program must have a policy that requires all parents, household members, and visitors to the program comply with the following during program hours:

(a) All firearms, including but not limited to loaded or unloaded pellet or ball bearing (BB) guns, darts, bows, and arrows, cap pistols, stun guns, paintball guns or any devices that shoot projectiles must be unloaded and inaccessible to children. Ammunition and firearms must be stored in separate locked areas.

(b) License holders must notify parents prior to admission of the presence of firearms or weapons listed in (a) or status change of ownership.

(c) Weapons may be carried by a law enforcement official who can document that his or her jurisdiction requires ready and immediate access to the weapon.

Subd. 8. First aid kit. The license holder must have a first aid kit that is accessible to caregivers in the program at all times and taken on field trips. The first aid kit must contain the following:

- (a) adhesive bandages in assorted sizes and tape;
- (b) sterile compresses;
- (c) triangular bandages;
- (d) scissors;
- (e) an ice bag or cold pack;
- (f) digital or tympanic ear thermometer;
- (g) mild liquid soap, hand sanitizer, or alcohol wipes;

(h) disposable powder-free, latex-free gloves;

(i) mouthpiece for giving CPR; and

(j) access to first aid instructions; manual or via phone or smart device.

Subd. 10. **Separation of personal articles.** Separate towels, wash cloths, and water bottles or single service drinking cups, or individual drinking cups must be used for each child.

Subd. 11. **Bedding.** Clean, separate, individual bedding must be provided for each child in care.

(a) For children not using cribs or playpens, the license holder must provide developmentally appropriate mats, cots, or other sleep equipment made of water-resistant material that can be cleaned and sanitized.

(b) Mats, cots, and other sleep equipment used in the program must be:

(1) in good condition, have no tears or holes and have no repairs with tape;

(2) have a clean sheet or blanket to cover the sleeping surface and a clean blanket for the child that is suitable given the child's size and room temperature;

(3) stored so sleeping surfaces are not touching each other unless cleaned and sanitized after each use; and

(c) Floor mats designed for sleeping and mattresses must be at least one inch thick.

Subd. 12. **Diapers, changing areas, and disposal.** The following sanitary procedures must be used to reduce the spread of communicable disease.

(a) An adequate supply of clean diapers must be available for each child and stored in a clean place inaccessible to children. Children may use disposable diapers with absorbent material or cloth diapers.

(b) If cloth diapers are used the following requirements must be met:

(1) cloth diapers must have an absorbent inner layer that is completely covered with an outer waterproof layer that has a waist closure;

(2) the cloth diaper and waterproof layer should be changed at the same time;

(3) cloth diapers supplied by parents, except those supplied by a commercial diaper service, must be labeled with the child's name;

(4) cloth diapers, except those supplied by a commercial diaper service, and soiled clothing must be placed in a plastic bag after removal and sent home with the parent daily;

(5) no rinsing or dumping of the contents of cloth diapers must be performed at the family child care program;

(c) Regardless of which diapering system is used in the program, clothes must be worn over diapers while the child is in the program.

(d) Children in diapers must be kept clean and dry. Diapers and clothing must be changed immediately when wet or soiled.

(e) Single service disposable wipes or freshly laundered cloths must be used for washing a soiled child. A child who has soiled or wet diaper must be washed with a disposable wipe or a freshly laundered cloth before rediapering.

(f) Changing tables and changing pads must be cleaned and disinfected between children, even if using a nonabsorbent covering that is discarded after each use.

(g) The diaper changing area must be covered with a smooth, nonabsorbent surface.

(h) Diaper changing areas including, but not limited to, counters, sinks, and floors must be cleaned and disinfected daily or when soiled.

(i) For disposable diapers, diapers must be disposed of in a covered diaper disposal receptacle located in the diaper changing area and lined with a disposable plastic bag. Diapers must only be disposed of with the diaper changing area or directly outside in a garbage can.

(j) Diaper receptacles must be emptied, cleaned, and disinfected daily or more often as needed. Contents of a diaper receptacle must be removed from the licensed space and replaced with a new liner at least daily or more often if odor is present.

(k) Diapering must not take place in a food preparation area.

(l) A family child care license holder may disinfect the diaper changing areas, tables, and diaper pails with either chlorine bleach in a manner consistent with label directions for disinfection or with a surface disinfectant.

Subd. 13. **Toilet training chairs.** Toilet training chairs, stools, and seats must be cleaned and disinfected after each use in accordance with the requirements in section 245J.22, subdivision 4, paragraph (b), clause 12.

Subd. 14. **Hand washing.** A child's hands must be washed with soap and water when soiled, after the use of a toilet or toilet training chair, and before eating a meal or snack. The license holder must monitor and assist the child who needs help.

(a) In sinks and tubs accessible to children, the water temperature must not exceed 120 degrees Fahrenheit to prevent children from scalding themselves while washing.

(b) Caregivers must wash their hands with soap and water after each diaper change, after assisting a child on the toilet, after washing the diapering surface, and before food preparation. Hands must be dried on a single use towel.

Subd. 15. Care of sick children. The following provisions must be followed for the care of sick children.

(a) If the child becomes sick while at the program, the child must be isolated from other children in care and the parent called immediately. When determining if a child is sick and exclusion is necessary, license holders must follow:

(1) the requirements on reportable diseases in Minnesota Rules, parts 4605.7040, 4605.7070, and 4605.7080; and

(2) guidelines from the commissioner of health on infectious diseases in child care settings.

(b) License holders must comply with the following requirements on reportable diseases:

(1) the policies of the license holder must require a parent to inform the program within 24 hours, when a child is diagnosed by their source of medical or dental care as having a reportable or infectious disease as specified in paragraph (a).

(2) the license holder must ensure that the commissioner of health is notified of any suspected case of reportable disease as specified in Minnesota Rules, parts 4605.7040, 4605.7050, or 4605.7080, within 24 hours of receiving the parent or staff report. Documentation of the notification must be kept at the program.

(3) the policies of the license holder must require notification of the parents of exposed children within 24 hours of when a parent or caregiver notifies the license holder of a reportable disease under paragraph (b), item (1). The notice must be posted in a clearly visible, accessible place or provided individually to each parent of a child who was exposed.

(c) Children with a reportable disease as specified in paragraph (a) must be excluded from the program for a length of time as specified in the commissioner of health guidelines on infectious diseases in child care settings; or until the health care provider has determined that the child can return; or the child can participate in routine activities without more staff supervision than usual.

Subd. 16. Medication administration requirements. The administration of medication by the license holder to children in care must meet the following requirements:

(a) all medications administered by the license holder must be prescribed by a licensed physician, physician assistant, certified nurse practitioner, advanced practice registered nurse, or dentist;

(b) the license holder must obtain written permission from the parent of a child prior to administering medicine, diapering products, sunscreen lotions, and insect repellents. Nonprescription medicines, diapering products, sunscreen lotions, and insect repellents must be administered according to the instructions of the manufacturer unless there are written instructions for their use provided by a licensed physician, physician assistant, advanced practice registered nurse, certified nurse practitioner or dentist;

(c) the license holder must obtain and follow written instructions from a licensed physician, advanced practice registered nurse, or dentist prior to administering any medication, prescription or over the counter;

(d) non-prescription sunscreen and insect repellent require parental consent but do not require instructions from each child's prescribing health professional; and

(e) a license holder must not give children in care herbal remedies, folk medicines or use essential oils unless a script is provided by a licensed physician, physician assistant, advanced practice registered nurse, certified nurse practitioner or dentist .

245J.24 Food and Nutrition

Subdivision 1. **Feeding.**

(a) Bottles of frozen formula or breast milk must be thawed under cold running water, in a crock-pot or warming device, or in a refrigerator.

(b) Plastic bottles, sippy cups, or other plastic food containers must never be warmed in a microwave oven.

(c) License holders must use bottles or sippy cups that are:

(1) glass, covered with a silicone sleeve;

(2) stainless-steel; or

(3) plastic labeled with 1, 2, 4 or 5 recycling codes.

(d) License holders must not serve food to infants or toddlers using polystyrene foam (Styrofoam) cups, bowls, or plates.

Subd. 2. **Milk.** Milk or milk alternatives served to children in care must be pasteurized.

Subd. 3. **Meals and snacks.** Well-balanced meals and snacks must be supplied by the license holder or parents daily.

(a) Food served during the day must include servings from each of the food components as defined by the United States Department of Agriculture Child and Adult Care Food Program according to Code of Federal Regulations, title 7, Subtitle B, Chapter II, part 226.

(b) Meals and snacks provided from home must meet United States Department of Agriculture's Child and Adult Care Food Program requirements. If a meal component is missing, the license holder must provide the missing component. When special diets are required for cultural or religious reasons, the provider shall obtain written, dated, and signed instructions from the child's parent unless the special diet is part of the program. The license holder must ensure that any alternate diet, except those required for religious, cultural, or medical reasons, include items from each of the following food groups: meat or meat alternative, grain, fruit and vegetable, fluid milk or milk alternative.

(c) The license holder must follow written instructions obtained from the parent at the time of enrollment, on individual foods needs for each child. Parents must be consulted about food preferences.

(d) Flexible feeding schedules must be provided for infants and toddlers and the usual diet and feeding schedule for the infant or toddler must be followed.

(e) Food, lunches, liquids, and bottles brought from home must be labeled with the first and last name of each child.

(f) Bottles must be washed after each use and sent home with the child each day.

Subd. 4. **Food and liquid safety.** Food and liquids must be handled and stored properly to prevent contamination and spoilage.

(a) All food and cooking utensils must be stored to protect them from dust, vermin, pipe leakage, or other contamination.

(b) Perishable foods and liquids must be refrigerated. Perishable foods and liquids are those that are subject to decay, spoilage, or bacteria.

(c) Foods and liquids requiring refrigeration must be maintained at no more than 40 degrees Fahrenheit. Food requiring heating must be maintained at no less than 150 degrees Fahrenheit until ready to serve. Frozen food must be maintained in a solid state until used. Liquids must be refrigerated until time of serving.

(d) Appliances used in food and liquid storage and preparation must be safe and clean.

(f) All canned food provided by the license holder must be commercially processed.

245J.25 Environmental Health

Subdivision 1. Facility.

(a) All license holders and applicants must report to the commissioner when their facility was first built. For applicants, this information must be included with their initial licensure application. For license holders, this information must be submitted upon request of the commissioner.

(b) In order to protect children from lead exposure, license holders must cover any bare soil that is within the outdoor play area with grass, bushes, wood chips, mulch, or sand. License holders are exempt from this requirement if they have documentation showing the concentration of lead in their soil is at a safe level for children, in accordance with Minnesota Department of Health guidance. All soil testing for lead contamination must be conducted by an Environmental Protection Agency-recognized National Lead Laboratory Accreditation Laboratory (NLLAP).

Subd. 2. **Water supply.** There must be a safe water supply in the family child care and group family child care program.

(a) A license holder must test the water supply to the program according to the requirements found in this subdivision. If the license holder declines to test the program’s water supply, they must follow the requirements found in paragraph (e).

(b) Programs that obtain water from a municipal public water system must:

- (1) retain a copy of the consumer confidence report from their water supplier; and
- (2) test for lead in drinking water and manganese if not tested by their public water system.

(c) Programs that obtain water from privately owned wells or sources must test any water used for cooking or drinking by a Minnesota Department of Health certified laboratory to verify safety and that the water standards found in paragraph (d) of this subdivision have been met.

(d) The water supply tested in paragraphs (b) and (c) must meet the following standards:

Contaminant Name	Guidance Value	Source of Health-Based Guidance Value	Frequency of Testing
Arsenic	10 ppb	Environmental Protection Agency	Prior to initial licensure and every 5 years thereafter.
Coliform Bacteria	Absent	Environmental Protection Agency	Prior to initial licensure and each calendar year

Contaminant Name	Guidance Value	Source of Health-Based Guidance Value	Frequency of Testing
Lead	5 ppb	Food and Drug Administration Bottled Water Standard	Prior to initial licensure and every 5 years thereafter.
Manganese	100 ug/L or ppb	MDH Human Health Based Water Guidance Table	Prior to initial licensure and every 5 years thereafter.
Nitrate	10 mg/L or ppm	Environmental Protection Agency	Prior to initial licensure and each calendar year

(e) If the water test results are at or above the levels found in paragraph (d) or if the license holder declined to test the water supply in the program, the license holder must:

(1) supply bottled or packaged water;

(2) use water filtration devices that have been certified by the National Science Foundation or American National Standards Institute to remove the contaminant. The water filtration device must be attached directly to water faucets, inserted into the refrigerator water dispenser, or inserted into water pitchers or bottles;

(3) use a water cooler dispenser;

(4) close the program to prevent children from using or consuming water; or

(5) attempt to reduce the contamination. The program must retest after attempting to reduce contamination to verify that results are below the levels found in paragraph (d).

(f) All license holders who test their water supply must file a record of the test results with the Minnesota Department of Health.

(g) Retesting and corrective measures may be recommended by the Minnesota Department of Health if results exceed state drinking water standards in paragraph (d) or where the supply may be subject to off-site contamination.

(h) License holders must follow the testing requirements of lead in drinking water in child care settings in Minnesota Statutes, section 145.9273.

(j) A copy of the most recent water testing results must be kept on the licensed premises.

(k) If test results are at or above health guidance values the license holder must notify all parents of enrolled children that the water test results are at or above health guidance values found in paragraph (d), and the steps taken to protect the enrolled children.

Subd. 3. Radon testing.

(a) **Radon testing.** “Radon testing” means the measurement of radon gas levels within the building and includes both short-term and long-term radon testing.

(b) **Heating Season.** “Heating season” means between November 1st and March 31st.

(c) **Non-Heating season.** “Non-heating season” means between April 1st and October 31st.

(d) **Short-term testing.** “Short-term testing” means radon tests that are conducted for a minimum of 48 hours.

(e) **Long-term testing.** “Long-term testing” means radon tests that are conducted for a minimum of 90 days.

(f) Family child care programs must ensure radon testing is performed prior to initial licensure and once every five calendar years or once every two calendar years if a radon mitigation system is installed. If a family child care applicant seeks a license outside of the heating season, the applicant must complete a short-term radon test within the same calendar year as initial licensure.

(g) Testing must be performed by the owner or renter, or a radon measurement professional licensed by the Minnesota Department of Health. Owners and renters are defined as the natural person listed in the property title, deed, lease, or equivalent legal document.

(1) Testing conducted by owners or renters must be conducted according to manufacturer instructions, and at least one test must be conducted in a room used for child care in the lowest level.

(2) Testing conducted by a radon measurement professional must be conducted according to section 144.4961.

(h) Test devices must be approved according to the requirements of Minnesota Radon Licensing Act found in Minnesota Statutes, section 144.4961. The following testing requirements must be followed:

(1) Radon levels must first be checked through short-term testing. All short-term testing must be conducted during the heating season. If short-term testing indicates a radon level at or above 4.0 pCi/l, the license holder must:

(i) ensure radon mitigation is completed by a licensed professional, within four months of receiving results;

(ii) hire a licensed professional to conduct another short-term test, within one month of receiving results; or

(iii) initiate long-term radon testing within one month of receiving results.

(2) All long-term testing must be conducted in consecutive months where at least half of the test is completed during the heating season and the other half during the non-heating season. If long-term testing indicates a radon level at or over 4.0 pCi/l, a license holder must ensure radon mitigation is completed within 120 days of receiving the results.

(i) Radon mitigation must be completed by a radon mitigation professional licensed by the Minnesota Department of Health according to Minnesota Statutes, section 144.4961. After mitigation, the building must be retested within 30 days to verify radon reduction.

(j) The results of each radon test must be on file at the program and available for review. The license holder must provide the results of the radon test with parents if the radon level is at or above 4.0 pCi/l.

(k) Community-based child care programs that are operating in a nonresidential space must comply with the requirements found in this subdivision and these additional requirements:

(1) Testing conducted by owners or renters must be completed in rooms that are used for child care.

(2) Testing must be conducted on days the program is operating or the heating, ventilation, and air conditioning is operating as if the space was occupied.