New York State Child Day Care Regulations
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Part 416:
Group Family Day Care

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416.1 Definitions, Enforcement and Hearings.

The provisions of Part 413 of this Title apply to this Part.

416.2 Procedures for Applying for and Renewing a License

(a) Applicants for a license must submit to the Office:

(1) a completed application, including required attestations, on forms furnished by the Office or approved equivalents. Such application and attestations must include an agreement by the applicant to operate the group family day care home in conformity with applicable laws and regulations;

(2) medical statements for the provider, assistant(s), and substitute(s) completed within the 12 months preceding the date of application, as required in section 416.11 of this Part;

(3) a summary of the training and experience of the provider and assistant(s) as described in section 416.13 of this Part;

(4) the names, addresses and day time telephone numbers of at least two acceptable references each for the provider, assistant(s), and any substitute(s) as specified in section 416.13 of this Part;

(5) sworn statements by the provider, assistant(s), substitutes and any person 18 years of age or older who resides in the proposed group family day care home indicating whether, to the best of their knowledge, they have ever been convicted

of a misdemeanor or a felony in New York State or any other jurisdiction, and fingerprint images as required pursuant to section 413.4 of this Article;

(6) certification, on forms provided by the Office, of the status of the individual applicant's child support obligations or payments, in accordance with the requirements of Section 3-503 of the General Obligations Law;

(7) certification, on forms provided by the Office, that the applicant is in compliance with workers compensation requirements of New York State law;

(8) Statewide Central Register of Child Abuse and Maltreatment and Justice Center for the Protection of Persons with Special Needs

(i) the Statewide Central Register Database Check forms necessary to complete required screening by the Statewide Central Register of Child Abuse and Maltreatment to determine if the provider, employees, volunteers, and any person 18 years of age or older who lives in the prospective group family day care home is the subject of an indicated report of child abuse or maltreatment;

(ii) the forms necessary to check the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs pursuant to Section 495 of the Social Services Law.

(9) a medical statement on forms furnished by the Office or approved equivalents regarding the health of all persons residing in the group family day care home completed within the 12 months preceding the date of application, as required in section 416.11 of this Part;

(10) a statement from the appropriate local official or authority that the dwelling meets standards for sanitation and safety, where the Office notifies the applicant that such a statement is required;

(11) where a licensee uses a private water supply:

(i) a report from a state licensed laboratory or individual, based on tests performed within the 12 months preceding the date of application, showing that the water meets standards for drinking water established by the New York State Department of Health; or

(ii) if the water does not meet such standards, a description of how water for all purposes will be provided by another method acceptable to the Department of Health;

(12) a report of inspection performed within the 12 months preceding the date of application, by local authorities or an inspector qualified to approve fuel burning systems, which documents approval of any wood or coal burning stove, fireplace, pellet stoves or permanently installed gas space heater in use at the home;

(13) certification, on forms provided by the Office, that the dwelling, its property and premises, and the surrounding neighborhood and environment are free from environmental hazards. Where the historical or current use of the dwelling, its property and premises, or the surrounding neighborhood indicate that an environmental hazard may be present, inspection or testing must be completed by the appropriate local official or authority to determine if such hazard exists. Documentation of the inspection or testing must be appended to the statement required by this paragraph and include a statement from the appropriate local official or authority following this inspection and/or testing that the dwelling, its property and premises, and the surrounding neighborhood, meet applicable standards for sanitation and safety. Such hazards include but are not limited to, dry cleaners, gas stations, nuclear laboratories or power plants, property designated as a federal superfund clean-up site, and any property with known contaminated ground or water supplies;

(14) the site to be used for child care must meet the definition and requirements of a personal residence as outlined in Part 413. The licensee must submit documentation, acceptable to the Office, to prove that the group family day care home is being used as a residence;

(15) a health care plan developed in accordance with requirements of section 416.11(c); and

(16) an email address for the provider or other person designated to receive communications from the Office. If the applicant is unable to provide at least one valid email address, the applicant must provide a valid mailing address for the provider or other person designated to receive written communications from the Office.

(b) An application will only be accepted by the Office when the applicant submits the minimum threshold of information as required by Office policy. An application sent to the Office that does not meet the minimum threshold will not be accepted and will be returned to the applicant. Once an application has been accepted, all additional required information must be submitted within no later than 90 days. Failure to submit all required information within the required timeframes shall be considered a withdrawal of the application.

(c) Applicants for a license may not be issued a license until an inspection of the group family day care home has been conducted showing compliance with the requirements of this Part and the relevant provisions of the Social Services Law.

(d) Renewal. Applicants for renewal of a license must submit to the Office at least 60 days in advance of the expiration date of the license the following:

(1) a completed application for renewal, including required attestations, on forms furnished by the Office or approved equivalents. Such application and attestations must include an agreement by the applicant to operate the group family day care home in conformity with applicable laws and regulations;

(2) certification, on forms provided by the Office, of the status of the individual applicant's child support obligations or payments, in accordance with the requirements of Section 3-503 of the General Obligations Law;

(3) certification, on forms provided by the Office, that the applicant is in compliance with workers compensation requirements of New York State law;

(4) certification, on forms provided by the Office, that the dwelling, its property and premises, and the surrounding neighborhood and environment are free from environmental hazards. Where the historical or current use of the dwelling, its property and premises, or the surrounding neighborhood indicate that an environmental hazard may be present, inspection or testing must be completed by the appropriate local official or authority to determine if such hazard exists. Documentation of the inspection or testing must be appended to the statement required by this paragraph and include a statement from the appropriate local official or authority following this inspection and/or testing that the dwelling, its property and premises, and the surrounding neighborhood, meet applicable standards for sanitation and safety. Such hazards include but are not limited to, dry cleaners, gas stations, nuclear laboratories or power plants, property designated as a federal superfund clean-up site, and any property with known contaminated ground or water supplies;

(5) where a licensee uses a private water supply:

(i) a report from a state licensed laboratory or individual, based on tests performed within the 12 months preceding the date of the application for renewal, showing that the water meets the standards for drinking water established by the New York State Department of Health; or

(ii) if the water does not meet such standards, a description of how water for all purposes will be provided by another method acceptable to the Department of Health;

(6) a report of inspection and approval performed by local authorities or an inspector qualified to approve fuel burning systems, within the 12 months preceding the date of application for renewal of any wood or coal burning stove, fireplace, pellet stoves, or permanently installed gas space heater in use at the home;

(7) proof of compliance with the training requirements of section 416.14 of this Part; and

(8) a statement from the appropriate local official or authority that the dwelling meets satisfactory standards for sanitation and safety, where the Office notifies the applicant that such a statement is required.

(9) an email address for the provider or other person designated to receive communications from the Office. If the applicant is unable to provide at least one valid email address, the applicant must provide a valid mailing address for the provider or other person designated to receive written communications from the Office.

(e) Applicants for renewal of a license may not be issued a license until an inspection of the group family day care home has been conducted showing compliance with the requirements of this Part and the relevant provisions of the Social Services Law.

416.3 Building and Equipment

(a) Each applicant must submit to the Office at the time of application for licensure a diagram of the proposed group family day care home showing: all rooms in the home, including the rooms which will be used for day care and the purposes for which such rooms will be used; the number and location of exits and alternate means of egress; and the outdoor play areas available to the children in care. An updated diagram must be submitted to the Office immediately upon making any change that impacts the child care program.

(1) Child care can only be provided in the areas of the group family day care home that have been included in the diagram and approved as child care space.

(b) Rooms that will be used by the children must be well-lighted and well-ventilated. Heating, ventilating and lighting equipment must be adequate for the protection of the health of the children.

(c) When care is provided, there must be sufficient light in the rooms where children are sleeping to allow supervision of and the safe movement and egress for the children.

(d) A temperature of at least 68° degrees Fahrenheit must be maintained in all rooms to be occupied by children.

(e) A firm clean crib, cot, bed or washable padded mat of age-appropriate size and construction must be provided for all children requiring a rest period.

(f) All cribs must be in compliance with the safety standards established by the Consumer Product Safety Commission. Stackable cribs are prohibited.

(g) Toxic paints or finishes must not be used on room surfaces, furniture or any other equipment, materials or furnishings which may be used by children or are within their reach.

(h) Peeling or damaged paint or plaster must be repaired.

(i) Concrete floors in areas identified as program space must be covered with appropriate material.

(j) The home must have adequate indoor space for the comfort of the children and to accommodate a variety of activities for the number of children in care.

(k) Each home must have access to outdoor space which is adequate for active play. Outdoor space may include public parks, school yards, or public play areas. A written plan or diagram outlining how children will safely travel to and from this location must be developed and approved by the Office.

(l) A bathroom not more than one floor level away from the program area must be accessible to children.

(m) All toilets and potty chairs must be located in rooms separate from those used for cooking, playing, sleeping or eating.

(n) Adequate and safe water supply and sewage facilities must be provided and must comply with State and local laws. Hot and cold running water must be available and accessible at all times.

(o) All residences used for group family day care homes must remain in compliance with the applicable provisions of the Fire and Building Code of New York State, or other applicable fire and building codes when the Fire and Building Code of New York State is not applicable.

(p) The house or building number of the day care program shall be conspicuously displayed and visible from the street.

416.4 Fire Protection

(a) Suitable precautions must be taken to eliminate all conditions which may contribute to or create a fire hazard.

(b) Evacuation drills.

(1) Evacuation drills must be conducted at least monthly during the hours of operation of the group family day care home.

(2) When conducting evacuation drills, the exit route must be varied to ensure that all approved means of egress are practiced. If one of the exit routes leads to a window or fire escape, the drill must include taking the children to the window or fire escape and explaining what would be expected of them should an actual fire occur that requires they use this exit route. Exiting through the window or on to the fire escape during a drill is not required.

(3) When multiple shifts of care are provided, such drills must be conducted monthly during each shift of care.

(4) The licensee must maintain on file a record of each evacuation drill conducted, using forms provided by the Office or approved equivalents.

(c) There must be an operational smoke detector on each floor of the home.

(d) In addition to a smoke detector on each floor, there must be a smoke detector located either within rooms where children nap, or in adjoining rooms. In the case of rooms used for napping or sleeping which have doors, a smoke detector is required inside that room.

(e) Where smoke detectors operate from electric power within the home, such detectors must have a battery powered back-up energy source, or battery powered smoke detectors must be used as a back-up system.

(f) Multi-purpose fire extinguishers of a type approved for use in residences must be maintained in good working condition and placed in the kitchen and outside the furnace room. A group family day care program located in a multiple family dwelling is not required to place or maintain a fire extinguisher outside the furnace room of such dwelling. The caregivers must know how to use the fire extinguishers placed in such home. Fire extinguishers with gauges must show a full charge. Fire extinguishers with seals must have unbroken seals.

(g) Children must be located on the same floor of the group family day care home as a caregiver at all times, except as specified in section 416.8 of this Part. Children must not be located above the second floor of a single-family dwelling.

(h) Children may be cared for only on such floors as are provided with readily accessible alternate means of egress which are remote from each other.

(1) Care can only be provided on floors with two means of egress. When care is provided on the first floor, and the second floor is without a second means of egress, the second floor may only be used for bathroom purposes provided that there is a window on the second floor that has the minimum net clear opening height dimension of at least 24 inches and a minimum net clear opening width dimension of at least 24 inches, and an adequate size through which all children and adults can be evacuated or a window that complies with the Fire and Building Code of New York State, or other applicable code if the Fire and Building Code of New York State is not applicable in that jurisdiction, as a means of egress.

(2) When care is provided primarily on the second floor of a group family day care home, both means of egress from the second floor must be stairways. One stairway must be an interior stairway whose pathway is unobstructed and leads directly to an unobstructed egress that is visible from the landing of the stairway and the other stairway must either be an interior stairway whose pathway is unobstructed and leads directly to an unobstructed egress that is visible from the landing of the stairway or be exterior to the house and lead directly to the ground.

(3) Where children are located below ground level, one means of egress from the below-ground level area must be either an interior stairway whose pathway is unobstructed and leads directly to an unobstructed egress at ground level, or an exterior stairway which leads directly to the ground. The vertical travel to ground level may not exceed eight feet. The second means of egress may be a window that has the minimum net clear opening height dimension of at least 24 inches and a minimum net clear opening width dimension of at least 24 inches, and an adequate size through which all children and adults can be evacuated or a window that complies with the Fire and Building Code of New York State, or other applicable code if the Fire and Building Code of New York State is not applicable in that jurisdiction, as a means of egress.

(4) All paths of egress on the interior and exterior of the home, including corridors, aisles and approaches must be kept free of obstructions, impediments and debris at all times.

(i) Trash, garbage and combustible materials must not be stored in the furnace room, or in rooms or outdoor areas adjacent to the home that are ordinarily occupied by or accessible to children. If there is not a separate, enclosed furnace room, trash, garbage and combustible materials must not be stored within four feet of the furnace.

(j) Wood or coal burning stoves, fireplaces, pellet stoves and permanently installed gas space heaters used at any time at the home must be inspected and approved by local authorities or an inspector qualified to approve fuel burning systems.

(k) Kerosene and gasoline may not be stored in the habitable areas of the home, child care areas, or path of egress.

416.5 Safety

(a) Suitable precautions must be taken to eliminate all conditions in areas accessible to children which pose a safety or health hazard.

(1) The program must take suitable precautions to prevent the following:

(i) serious injury of a child while in care at the program or being transported by the program; and

(ii) death of a child while in care at the program or being transported by the program.

(b) The licensee must submit a written Emergency Plan and Emergency Evacuation Diagram using the forms furnished by the Office or an approved equivalent form. Primary emphasis must be placed on the safe and timely evacuation and relocation of all children. The plan must account for the variety of needs of children, including those with disabilities.

(1) The plan, as submitted with the application or changed thereafter, must be reviewed with the parents of the children in the program and all caregivers that work in the program.

(2) The emergency evacuation diagram must be posted in a visible location.

(3) The emergency plan must include the following:

(i) how children and adults will be made aware of an emergency;

(ii) a designation of primary and secondary evacuation routes;

(iii) methods of evacuation, including where children and adults will meet after evacuating the home, and how attendance will be taken;

(iv) a plan for the safe evacuation of children from the premises for each shift of care provided (day, evening, night);

(v) the designation of primary and secondary emergency relocation sites to be used in the case of an emergency, which prohibits re-entry to the premises, and how the health, safety and emotional needs of children will be met in the event it becomes necessary to evacuate to another location;

(vi) a strategy for sheltering in place; and how the health, safety and emotional needs of children will be met in the event it becomes necessary to shelter-in-place; and

(vii) notification of authorities and the children's parents;

(viii) roles of staff; and

(ix) procedures related to the reunification of children and caretakers.

(4) Each program must hold two shelter-in-place drills annually during which procedures and supplies are reviewed. Parents must be made aware of this drill in advance.

(5) The licensee must maintain on file a record of each shelter-in-place drill conducted, using forms provided by the Office or approved equivalents.

(6) Parents must be made aware of the primary and secondary relocation sites and any changes to the plan in advance. In the case that a program is directed to a different location by emergency services, the program must notify parents and OCFS as soon as possible. In the event that relocation is required, a written notice must be placed on the main entry to the child care space unless an immediate threat precludes the program from doing so.

(7) Each program must have on site a variety of supplies including food, water, first aid and other safety equipment to allow for the protection of the health and safety of children in the event parents are unable to pick up children due to a local disaster. The plan must take into account a child's needs for an overnight stay. Food supplies must be non-perishable and of sufficient quantity for all children for an overnight stay.

(c) Portable electric heaters or other portable heating devices, regardless of the type of fuel used, may not be used in rooms accessible to the children.

(d) Radiators and pipes located in rooms occupied by children must be covered to protect the children from injury when the heating system is in use.

(e) Porches, decks or stairs with more than two steps must have railings with a barrier extending to the floor or ground to prevent children from falling. Acceptable types of barriers include, but are not limited to, balusters, intermediate rails, and heavy screening.

(f) Barriers.

(1) Barriers must exist to prevent children from gaining access to any swimming pool, drainage ditches, wells, ponds or other bodies of open water located on or adjacent to the property where the day care program is located. Such barriers must be of adequate height and appropriately secured to prevent children from gaining access to such areas.

(2) Barriers must exist to prevent children from gaining access to unsafe, dangerous or hazardous areas or devices. Such areas and devices include, but are not limited to, holes, pits, wood, pellet and coal burning stoves, fireplaces and permanently installed gas space heaters.

(g) Pools and spas.

(1) The use of spa pools, hot tubs and fill-and-drain wading pools is prohibited.

(2) The use of non-public and residential pools is prohibited except in those instances where the program can demonstrate the ability to operate and adequately supervise the use of a non-public or residential pool in a clean, safe and sanitary manner.

(3) To use a non-public or residential pool, a program must:

(i) provide to the Office documentation demonstrating that there will be adequate supervision of all children in care while children use the pool, in accordance with the requirements of section 416.8 of this Part;

(ii) submit documentation acceptable to the Office demonstrating that consistent, safe and adequate water quality of the pool will be maintained; and

(iii) submit a written pool safety plan acceptable to the Office that sets forth adequate safety standards for use of the pool.

(4) The Program must obtain prior written permission from the parent for his or her child to use the pool. Permission notes must include the following:

(i) Name and age of the child;

(ii) Address where the pool is located;

(iii) The depth of the pool at its deepest point;

(iv) Dates or months the child is permitted to swim in the pool; and

(v) Signature of parent and date signed.

(5) A trained person as described in section 416.8(n) of this Part must be present at the pool whenever the pool is in use by day care children.

(6) Programs using non-public or residential swimming pools shall maintain a current and accurate record detailing the pool maintenance.

(7) Only a program's pool at the group family day care site and public swimming pools and bathing beaches that have a valid permit to operate issued from the local health department having jurisdiction for the bathing facility or those operated by a NYS agency may be used.

(h) Public swimming pools and adjacent areas used by the children must be constructed, maintained, staffed and used in accordance with Chapter 1, subpart 6-1, of the New York State Sanitary Code, and in such a manner as will safeguard the lives and health of children.

(i) Protective caps, covers or permanently installed obstructive devices must be used on all electrical outlets that are accessible to children.

(j) All matches, lighters, medicines, drugs, detergents, aerosol cans and other poisonous or toxic materials must be stored in their original containers, and must be used in such a way that they will not contaminate play surfaces, food or food preparation areas, or constitute a hazard to children. Such materials must be kept in a place inaccessible to children.

(k) Cleaning materials must be stored in their original containers unless the product's use or the program's health care plan indicates that the product be mixed with water before use. In this case, the container used for subsequent use of the mixed product must state the name of the cleaning material contained within. Cleaning materials must be used in such a way that they will not contaminate play surfaces, food or food preparation areas, or constitute a hazard to children. Such materials must be kept in a place inaccessible to children.

(l) Animals and Pets.

(1) Any animal present at the day care home must present no evidence of disease or parasite and pose no threat.

(2) All animals present at the program that require a license must be licensed.

(3) All required vaccinations must be kept current.

(4) The license and record of vaccinations must be available to the Office when requested.

(5) The program must immediately notify the parents of children in care and the Office when an animal kept on the premises harms any person, including a child in care.

(6) The provisions of this subdivision apply to all animals present at the program regardless of who owns the animal.

(7) The program must provide parents with a written description of all animals kept on the premises prior to a child's enrollment in the program.

(8) Within twenty-four hours that an animal is first kept on the premises of a child care program, the program must provide written notice to the Office and parents of children in care that such animal is being kept on the premises.

(m) Communication.

(1) A working telephone must be available for use by all caregivers at all times children are in care.

(2) The phone used at the group family day care must remain in a designated visible location during all hours that children are in care.

(3) The phone used at the group family day care must have a ringtone that remains audible throughout day care hours of operation.

(4) All caregivers must be able to operate the phone used at the day care program.

(5) 911 and the poison control phone number must be posted conspicuously on or next to the telephone.

(6) Devices used for purposes of call blocking shall not be used to block in-coming calls from parents of children in care, representatives of the Office or agents of the state or local government during the hours of operation of the child day care program.

(n) Materials and play equipment.

(1) Materials and play equipment used by the children must be sturdy and free from rough edges and sharp corners.

(2) Play equipment must be in good repair and be placed in a safe location.

(3) Play equipment must be used in a safe manner.

(4) Play equipment must be used specifically for its intended purpose. Such equipment and apparatus may be used only by the children for whom it is developmentally appropriate.

(5) There must be a cushioned surface under all outside play equipment that present a fall hazard. Surfacing may not include concrete, asphalt, grass or hard compacted dirt.

(o) Clear interior or exterior glass doors must be marked clearly to avoid accidental impact.

(p) Glass in outside windows less than 32 inches above the floor level must be of safety grade or otherwise protected by use of barriers to avoid accidental impact.

(q) Windows above the first floor, other than those identified for emergency evacuation, that are accessible to children and which present a fall hazard must be protected by permanent barriers or restrictive locking devices which prevent a window from opening fully and prevent children from falling out of the windows.
(r) An operable flashlight or battery powered lantern must be kept in the child care area. Such equipment must be properly maintained for use in the event of a power failure.

(s) Door latches, locks and covers.

(1) Every closet door latch that is accessible to children must be constructed to enable children to open the door from inside the closet.

(2) Every bathroom door lock must be designed to permit opening of the locked door from the outside in an emergency. The opening device must be readily accessible.

(3) Egress doors from the residence must be able to be opened from the inside without using a key. Child protective doorknob covers may not be used on egress doors.

(t) The following items must be used and stored in such a manner that they are not accessible to children: handbags, backpacks or briefcases belonging to adults; plastic bags; and toys and objects small enough for children to swallow.

(u) High chairs.

(1) High chairs, when used, must have a sturdy and stable base and be used only by children who are able to sit up independently.

(2) A safety strap must be fastened around children who are seated in high chairs.

(v) Operating carbon monoxide detectors must be used in all group family day care homes when required, and located in areas of the home in accordance with applicable laws.

(w) The use of trampolines by day care children is prohibited, except for small one-person exercise trampolines.

(x) While day care is being provided in the home, firearms, shotguns, rifles and ammunition must be securely stored and inaccessible to children.

(1) Ammunition shall be stored in a safe storage depository, as defined in 416.5(x)(3).

(2) Firearms, shotguns and rifles shall be secured unloaded with an appropriate trigger locking device, or stored in a safe storage depository, as defined in 416.5(x)(3).

(3) A safe storage depository shall be a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other

unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon or ammunition contained therein.

(4) Properly stored firearms, shotguns, rifles and ammunition may be accessed and loaded in an emergency situation.

(5) Child care programs shall give written notice to parents and the Office, on forms furnished by the Office or an approved equivalent, that a firearm, shotgun, rifle or ammunition is on the premises.

(y) All window and door blind cords, ropes, wires and other strangulation hazards must be secured and inaccessible to children.

(z) Caregivers and volunteers must take suitable precautions to prevent children from receiving burns caused by contact with hot liquids.

416.6 Transportation

(a) The Licensee must obtain written consent on forms furnished by the Office or approved equivalents from the parent of the child for any transportation of the children in care at the group family day care home provided or arranged for by a caregiver.

(b) Parents must be informed when the person who is providing transportation changes.

(c) Parents must be informed of and agree to a transportation plan.

(d) A child must never be left unattended in any motor vehicle or other form of transportation.

(e) Each child must board or leave a vehicle from the curb side of the street.

(f) All children must be secured in child safety seats properly installed per manufacturers recommendations, or with safety belts, as appropriate for the age of the child in accordance with the requirements of the Vehicle and Traffic Law, before any child may be transported in a motor vehicle where such transportation is provided or arranged for by the licensee.

(g) Programs that offer transportation services either directly or by contract with a third party must ensure that drivers and vehicles meet all Department of Motor Vehicles and Department of Transportation requirements.

(h) Drivers must be 18 years of age or older and hold a current valid license to drive the class of vehicle they are operating.

(i) Any motor vehicle, other than a public form of transportation, used to transport children in care at the group family day care home must have a current registration and inspection sticker.

(j) Parents whose children receive transportation services must receive, at the time of enrollment of their children, a copy of the program's transportation plan. If the plan is amended, parents must receive a copy of the amended plan prior to its start date

(k) No caregiver, employee, household member or volunteer transporting child care children shall operate a motor vehicle while using a mobile phone, or other electronic communication device, including hands-free devices. All communications made or received by the driver while the motor vehicle is in use for the transportation of child care children must be made from a legally permitted parked position off the road.

(l) The program must openly display daily transportation schedules.

(m) Child care programs are prohibited from transporting child care children in a vehicle built to hold more than 10 passengers, including the driver, unless the vehicle: meets the National Highway Traffic Safety Administration definition of a school bus or a multifunction school activity bus; complies with the National Highway Traffic Safety Administration Federal Motor Vehicle Safety Standards applicable to a school bus or multifunction school activity bus; and is inspected per New York State Department of Transportation rules and regulations.

416.7 Program Requirements

(a) The program must establish and implement a daily schedule of program activities that offers reasonable regularity in routines, including snack and meal periods, nap and rest periods, indoor activities, outdoor play time and a variety of large muscle activities throughout the day. There must be physical activity, appropriate to the ages of the children in care, every day.

(b) When care is provided to infants less than six months of age, the daily schedule must include short supervised periods of time during which the awake infant is placed on his or her stomach, back or side allowing them to move freely and interact socially, thus developing motor skills and social skills.

(c) The daily schedule must include a routine of good personal hygiene practices, and when night care is provided, this includes changing into night clothes, brushing teeth, and washing before bed in the manner to be agreed between the parent and the program.

(d) Children must receive instruction, consistent with their age, needs and circumstances, in techniques and procedures that will enable them to protect themselves from abuse and maltreatment.

(e) Each group family day care home must provide a sufficient quantity and variety of materials and play equipment appropriate to the ages of the children and their developmental levels and interests, including children with developmental delays or disabilities, which promote the children's cognitive, educational, social, cultural, physical, emotional, language and recreational development.

(f) As age and development permit, children must be allowed freedom of movement and must be provided with an environment designed to develop such skills as crawling, standing, walking and running.

(g) Children must be provided an opportunity to choose between quiet activities and active play.
(h) Programs must offer daily supervised outdoor play, except during inclement or extreme weather or unless otherwise prohibited by a health care provider. Parents may request and programs may permit children to remain indoors during outdoor play time so long as such children will be supervised by an approved caregiver.

(i) Except while sleeping, awaking or going to sleep, an infant must not be left in a crib, playpen or other confined space for more than 30 minutes at any one time. Other than at meals or snack time, a child must not be left in a high chair for longer than 15 minutes.

(j) Children may not sleep or nap in car seats, baby swings, strollers, infant seats or bouncy seats. Should a child fall asleep in one of these devices, he or she must be moved to a crib/cot or other approved sleeping surface.

(k) For day and evening care, appropriate rest and quiet periods, that are responsive to individual and group needs, must be provided so that children can sit quietly or lie down to rest.

(l) Other than for school age children, sleeping and napping arrangements must be made in writing between the parent and the program. Such arrangements shall include: the area of the home where the child will nap; whether the child will nap on a cot, mat, bed or a crib; and how the napping child will be supervised, consistent with the requirements of section 416.8 of this Part.

(m) Sleeping arrangements for infants through 12 months of age require that the infant be placed flat on his or her back to sleep, unless medical information from the child's health care provider is presented to the program by the parent that shows that arrangement is inappropriate for that child.

(n) Cribs, bassinets and other sleeping areas for infants through 12 months of age must include an appropriately sized fitted sheet, and must not have bumper pads, toys, stuffed animals, blankets, pillows, wedges or infant positioners. Wedges or infant positioners will be permitted with medical documentation from the child's health care provider.

(o) The resting/napping places must:

(1) be located in approved day care space;

(2) be located in safe areas of the home;

(3) be located in a draft-free area;

(4) be where children will not be stepped on;

(5) be in a location where safe egress is not blocked; and

(6) allow caregivers to move freely and safely within the napping area in order to check on or meet the needs of children.

(p) Individual clean bed coverings must be available, as needed, for each child requiring a rest period.

(q) Bedding, which is the removable and washable portion of the sleeping environment, must not be shared between children.

(r) Sleeping surfaces, including bedding, which is the removable and washable portion of the sleeping environment, must not come in contact with the sleeping surfaces of another child's rest equipment during storage. Mats and cots must be stored so that the sleeping surfaces do not touch when stacked.

(s) No crib, cot, bed or mat may be occupied by more than one child, nor by a child and any adult.

(t) Children unable to sleep during nap time shall not be confined to a sleeping surface (cot, crib, etc.) but instead must be offered a supervised place for quiet play.

(u) If television or other electronic visual media is used, it must be part of a planned developmentally appropriate program with an educational, social, physical or other learning objective that includes identified goals and objectives. Television and other electronic visual media must not be used solely to occupy time.

(v) Television and other electronic visual media must be turned off when not part of a planned developmentally appropriate program activity.

(w) Children must not watch television or other electronic visual media during meals.

(x) Television and other electronic visual media must be turned off while children are sleeping, and during established nap times. This is not to prohibit a program from using electronic visual media for business purposes during sleep or nap time if its use does not interfere with the supervision of children.

(y) At the time of the child's admission to the program, the program must furnish parents with appropriate instructional materials that will assist them in evaluating the home, and its caregivers. Such materials must include information concerning child abuse and maltreatment, and guidance on the steps the parent may take if they suspect their child has been abused or maltreated.

416.8 Supervision of Children

(a) Children cannot be left without competent supervision at any time. Competent supervision includes awareness of and responsibility for the ongoing activity of each child. It requires that all children be within a caregiver's range of vision except as provided in section 416.8(b) of this Part and that the caregiver be near enough to respond when redirection or intervention strategies are needed. Competent supervision must take into account the child's age, emotional, physical and cognitive development.

(b) Children may be outside a caregiver's range of vision only as follows:

(1) With the prior written permission of the parent, children who are napping or sleeping may do so in a room where an awake approved caregiver is not present, the doors to all rooms must be open; the approved caregiver must remain on the same floor as the children; and a functioning electronic monitor must be used in any room where children are sleeping or napping and an awake approved caregiver is not present.

(2) When a functioning electronic monitor is in use, napping and sleeping children must be physically checked every 15 minutes to assess the overall safety and well-being of the children and to make sure infants' faces are uncovered. The checks must be done in close physical proximity to the child.

(3) For evening and night care, the caregiver may sleep while children are sleeping only if functional electronic monitors are in use in each room where children are sleeping. The licensee must obtain the written permission to do so from the parent of each child receiving evening or night care in the group family day care home. In the event written permission is not obtained from all parents, the caregiver must remain awake at all times and physically check sleeping children every 15 minutes to assess the overall safety and well-being of the children and to make sure infants' faces are uncovered. The checks must be done in close physical proximity to the child.

(4) Children who are able to toilet independently, including fastening and unfastening clothing, wiping themselves, flushing the toilet, and washing their hands, may use a bathroom on another floor for a short period of time without direct adult supervision.

(5) With the written permission of the parents, a program may allow school-aged children to participate in activities outside of the direct supervision of a caregiver. Such activities must occur on the premises of the group family day care home. A caregiver must visually check such children every 15 minutes.

(c) Any electronic monitor or surveillance equipment used to take images, monitor or record children in day care may not be used as a substitute for competent direct supervision of children.

(d) Only approved caregivers may be left unsupervised with day care children.

(e) The provider must be the primary caregiver of children in a group family day care home.

(f) The assistant(s) must also be caring for children whenever the numbers and ages of children in care dictate that an assistant be present.

(g) The provider may be absent for short- or long-term absences under the following conditions:

(1) When the provider is absent for 3 or fewer consecutive days, the Office does not need to be notified in advance; however the program must keep a written record of the caregiver present in place of the absent provider.

(2) When the provider is absent for more than 3 consecutive days or has reason to be absent on a recurring basis, the Office must be notified in advance and the program must keep a written record of the caregiver present in place of the absent provider.

(h) With written Office approval, an approved assistant will be permitted to work in place of the provider for long-term absences for up to a total of 30 cumulative days per year.

(i) In other than emergency situations such as illness or accident, parents must be notified in writing 2 weeks prior to any long-term absence of the provider. This notice must include specific start and end dates of the absence and who will be taking the provider's place in the day care program.

(j) Supervision ratios.

(1) One caregiver may care for a maximum of six children younger than school age, or eight children when at least two of the eight children are school aged.

(2) Two caregivers must be present when more than six children, none of whom are school age, are in care.

(3) When care is provided for children under the age of two years, there must be at least one caregiver present for every two children under the age of two years in attendance.

(4) For the purposes of off-site activities or transportation, if the group of children is divided, the ratio requirements must be maintained.

(k) A provider must be approved by the Office or its representatives prior to assuming the role in any group family day care program.

(l) reserved

(m) The use of any type of device for social or entertainment purposes, listening to music on headphones, playing screen games, using the Internet, or making personal calls by caregivers while supervising children is prohibited. Use of any devices for brief and necessary communications or purposes directly related to the child care program such as communication with parents or the Office and its representatives is allowable.

(n) With the prior written permission of the parents, programs meeting the requirements of section 416.5(g) of this Part may allow children in day care to participate in residential pool activities providing the following supervision criteria are met:

(1) The program must develop a plan of supervision which ensures that there is a person supervising the children in the pool at all times children are using the pool.

(2) The person supervising the use of the pool must be able to swim.

(3) Where some children in care are using the pool and others are not using the pool, the plan of supervision must ensure that there will be adequate and appropriate supervision of the children using the pool and those not using the pool. While the pool is in use, the group family day care home must continue to meet the supervision requirements for all children in care, including children involved in pool activities.

(4) Any person supervising children in pools must possess a current Cardiopulmonary Resuscitation Certification (CPR) or equivalent certification, as approved by the Office and appropriate to the ages of the children in care.

(o) Releasing children from care.

(1) No child can be released from the group family day care home to any person other than his or her parent, person(s) currently designated in writing by such parent to receive the child, or other person authorized by law to take custody of a child.

(2) No child can be released from the program unsupervised except upon written permission of the child's parent. Such permission must be acceptable to the program and should take into consideration such factors as the child's age and maturity, proximity to his or her home, and safety of the neighborhood.

(3) When transportation is provided as a service by the program, no child can be released from the day care program directly to the child's home or other destination without first verifying that the parent or person(s) designated by the parent to receive the child is present at that destination to receive the child.

(p) Visitor control procedures.

(1) Each group family day care home shall require visitors to the home to:

(i) sign in upon entry to the premises;

(ii) indicate in writing the date of the visit and the time of entry to the home;

(iii) clearly state in writing the purpose of the visit; and

(iv) sign out upon departure from the home indicating in writing the time of departure.

(2) Each group family day care home shall establish written rules and policies as are necessary to provide for monitoring and control of visitors to protect the health, safety and welfare of children in care.

416.9 Behavior Management

(a) The group family day care licensee must establish and follow a written plan for behavior management that is acceptable to the Office. This plan must include how the

program will approach challenging behaviors, help children solve problems, and encourage acceptable behaviors.

(b) The caregivers must use acceptable techniques and approaches to help children solve problems.

(c) The program must provide copies of the behavior management plan to all caregivers and parents.

(d) Discipline must promote positive self-esteem in children and guide children in such a way as to help each child develop self-control and assume responsibility for his or her actions through clear and consistent rules and limits appropriate to the ages and development of the children in care.

(e) Any discipline used must relate to the child's action and be handled without prolonged delay on the part of the caregiver so that the child is aware of the relationship between his or her actions and the consequences of those actions.

(f) Isolating a child in a closet, darkened area, or any area where the child cannot be seen and supervised by the caregiver is prohibited.

(g) When a child's behavior harms or is likely to result in harm to the child, others or property, or seriously disrupts or is likely to seriously disrupt group interaction, the child may be separated briefly from the group, but only for as long as is necessary for the child to regain enough self-control to rejoin the group. The child must be placed in an area where he or she is in the view of, and can be supervised and supported by a caregiver. Interaction between a caregiver and the child must take place immediately following the separation to guide the child toward appropriate group behavior. Separation of a child from the group in a manner other than that provided for herein is prohibited.

(h) Physical restraint is prohibited. Physical restraint is the act of using force to extremely limit a child's body movements for a lengthy period of time. It involves holding a child against his/her will and putting pressure on the child's chest and/or extremities in an effort to significantly restrict his/her movement, thereby making it extremely difficult for a child to move. It may also involve holding a child flat on the ground and restricting his/her body from movement.

(i) Physical intervention is permitted. Physical intervention is the act of using bodily contact as a short- term immediate response to prevent children from incurring substantial or serious injury to themselves or injuring others. It may involve: picking a child up and moving him or her away from danger or conflict, holding the child's hands or gently touching the body to direct their movement, rocking a child to soothe them, blocking a child's path when they are about to injure themselves or others or destroy property. This technique allows the child to regain self-control as quickly and safely as possible. A consultation with a child's parent is required if the child is not receptive to physical intervention.

(j) Corporal punishment is prohibited. For the purposes of this Part, the term corporal punishment means punishment inflicted directly on the body including, but not limited to,

physical restraint, spanking, biting, shaking, slapping, twisting or squeezing; demanding excessive physical exercise, prolonged lack of movement or motion, or strenuous or bizarre postures; and compelling a child to eat or have in the child's mouth soap, hot spices, irritants or the like.

(k) Withholding or using food, rest or sleep as a punishment is prohibited.

(l) A child may only be disciplined by a caregiver.

(m) Methods of discipline, interaction or toilet training which frighten, demean or humiliate a child are prohibited.

416.10 Child Abuse and Maltreatment

(a) Any abuse or maltreatment of a child receiving child care or residing in the home, including the provider's children and any foster children, is prohibited. A group family day care home must prohibit and may not tolerate or in any manner condone an act of abuse or maltreatment by an employee, volunteer or any other person. An abused child or maltreated child means a child defined as an abused child or maltreated child pursuant to section 412 of the Social Services Law.

(b) In accordance with the provisions of sections 413 and 415 of the Social Services Law, caregivers must immediately report any suspected incidents of child abuse or maltreatment concerning a child receiving child care to the Statewide Central Register of Child Abuse and Maltreatment or cause such a report to be made when the caregiver has reasonable cause to suspect that a child coming before them in their capacity as caregiver in a group family day care is an abused or maltreated child. Such report must be followed by a written report within 48 hours, in the form and manner prescribed by the Office, to the child protective service of the social services district in the county in which the child resides.

416.11 Health and Infection Control

(a) Child Enrollment Requirements for Children Not Enrolled in Kindergarten or a Higher Grade.

(1) No child may be accepted for care in a child care program unless the program has been furnished with a written statement signed by a health care provider verifying that the child is able to participate in child care and currently appears to be free from contagious or communicable diseases. A child's medical statement must have been completed within the 12 months preceding the date of enrollment.

(2) The written medical statement from the health care provider must also state whether the child is a child with special health care needs and, if so, what special provisions, if any, will be necessary in order for the child to participate in child day care. When the written statement from the health care provider advises the day care program that the child being enrolled is a child with special health care needs, the day care program must work together with the parent and the child's health care provider to develop a reasonable health care plan for the child while

the child is in the child care program. The health care plan for the child must also address how the day care program will obtain or develop any additional competencies that the caregivers will need to have in order to carry out the health care plan for the child.

(3) The program must keep documentation of immunizations the child has received to date, in accordance with New York State Public Health Law.

(4) A program may admit any child not yet immunized provided the child's immunizations are in process and the parent gives the program specific appointment dates for required immunizations in accordance with the requirements of New York Public Health Law.

(5) Reserved

(6) Any child who is missing one or more of the required immunizations may be admitted if a physician licensed to practice medicine in New York State furnishes the program with a signed, completed medical exemption form issued by the New York State Department of Health or New York City Department of Education. The medical exemption must be reissued annually.

(7) With the exception of children meeting the criteria of section 416.11(a)(6), children enrolled in child day care must remain current with their immunizations in accordance with the current schedule for required immunizations established in the New York Public Health Law.

(8) The program must try to obtain a copy of a lead screening certificate for each child under the age of six years. If the parent does not have one, the program may not exclude the child from child day care, but must give the parent information on lead poisoning and prevention, and refer the parent to the child's health care provider or the local health department for a lead blood screening test.

(b) Provider, Assistant, Substitute, and Household Member Health Requirements.

(1) The provider, assistant(s), and substitute(s), must each submit a medical statement on forms furnished by the Office or an approved equivalent from a health care provider:

(i) at the time of initial group family day care application;

(ii) before such person has any involvement in child care work.

(2) Thereafter a medical statement will be required when an event or condition reasonably calls into question a caregiver’s ability to provide safe and suitable child care.

(3) Initial medical statements sent in with the application or as a result of a new hire must be dated within 12 months preceding the date of application or hiring date.

(4) The medical statement must give satisfactory evidence that the individual is physically fit to provide child day care and has no diagnosed psychiatric or emotional disorder which would preclude such individual from providing child day care.

(5) All providers, assistants, substitutes and household members must be free from communicable disease unless his/her health care provider has indicated that the presence of the communicable disease does not pose a risk to the health and safety of the children in care.

(6) The initial medical statement for providers, assistants, and substitutes must include the results of a Mantoux tuberculin test or other federally approved tuberculin test performed within the 12 months preceding the date of the application. Thereafter, tuberculin tests are only required at the discretion of the employee's health care provider or at the start of new employment in a different child care program.

(7) The program must retain on file in the program a medical statement, on forms furnished by the Office or approved equivalents, from a health care provider for each person residing in the home.

(i) Such medical statement must be completed before the person begins to reside in the child care home, and must be dated within 12 months preceding the date of the application or the date the person takes up residency at the home and must state that the person has no health conditions which would endanger the health of children receiving day care in the home.

(ii) Thereafter a medical statement for a household member will be required when an event or condition involving the household member reasonably calls into question the health or safety of children receiving care in the home.

(8) Consumption of, or being under the influence of, alcohol by any caregiver, volunteer or employee is prohibited during child day care hours.

(9) Consumption of or being under the influence of an illegal drug by any caregiver, volunteer or employee is prohibited during child day care hours.

(10) Consumption of or being under the influences of a controlled substance by any caregiver, volunteer or employee is prohibited during day care hours, unless the controlled substance is prescribed by a health care provider is being taken as directed, and does not interfere with the person's ability to perform his or her child day care functions.

(11) Smoking in indoor or outdoor areas in use by children and in vehicles when children are occupying the vehicles is prohibited.

(12) All caregivers must have knowledge of and access to children's medical records and all emergency information.

(13) Caregivers must be aware of each child's special health care needs identified in the child's individual health care plan. This includes, but is not limited to, allergies, disabilities and medical conditions.

(14) Caregivers must obtain assistance as identified in the child's individual health care plan if the child has a medical emergency.

(c) The Health Care Plan.

(1) The Licensee must prepare a health care plan on forms furnished by the Office. Such plan must protect and promote the health of children. The health care plan must be on site, followed by all caregivers and available upon demand by a parent or the Office. In those instances in which the program will administer medications, the health care plan must also be approved by the program's health care consultant unless the only medications to be administered are:

(i) over-the-counter topical ointments, lotions and creams, sprays, including sunscreen products and topically applied insect repellant; and/or

(ii) epinephrine auto injectors, diphenhydramine in combination with the auto injector, asthma inhalers and nebulizers.

(2) The health care plan must describe the following:

(i) how a daily health check of each child for any indication of illness, injury, abuse or maltreatment will be conducted and documented;

(ii) how a record of each child's illnesses, injuries and signs of suspected abuse or maltreatment will be maintained;

(iii) how professional assistance will be obtained in emergencies;

(iv) the advance arrangements for the care of any child who has or develops symptoms of illness or is injured, including notifying the child's parent;

(v) which designated caregivers will be administering medication. The plan must state that only a trained, designated caregiver may administer medications to children, except in those programs in which the only administration of medications offered will be the administration of over-the-counter topical ointments, lotions, creams, and sprays including sunscreen products and topically applied insect repellant.

(vi) the contents of the first aid kit;

(vii) that the trained designated caregiver may only administer medications to children if the designated caregiver is:

(a) at least 18 years of age,

(b) possesses a current certification in first aid and cardio-pulmonary resuscitation (CPR) appropriate to the ages of the children in care,

(c) and has completed the Medication Administration Training (MAT) pursuant to section 416.11(e) or in the case of administering epinephrine auto injectors, Diphenhydramine in combination with the auto injector, asthma inhalers and nebulizers has received training on its use from the parent, health care provider or a health care consultant;

(viii) the designation of the health care consultant of record for programs, as indicated in section 416.11(c)(1) of this Part; and

(ix) When a health care consultant is required to approve a health care plan the schedule of visits by a health care consultant to programs administering medications, must occur at least once every two years and must include a review of the health care policies and procedures and a review of the documentation.

(d) Health Care Consultant.

(1) Programs must demonstrate to the health care consultant how medications are administered in the program. A program is not required to schedule a visit with a health care consultant or include a schedule of visits by a health care consultant in their health care plan when:

(i) only over-the-counter topical ointments, lotions, creams and sprays, including sunscreen products and topically applied insect repellant are administered; and/or

(ii) epinephrine auto injectors, diphenhydramine in combination with the auto injector, and asthma inhalers and nebulizers are the only medications administered in the program.

(2) Should the health care consultant determine, after a visit to the day care program, that the approved health care plan is not being reasonably followed by the program, the health care consultant may revoke his or her approval of the plan. If the health care consultant revokes his or her approval of the health care plan, the health care consultant must immediately notify the licensee and the licensee must immediately notify the Office, no longer than 24 hours later. In that instance, the health care consultant may also notify the Office directly if he or she so desires.

(3) A program authorized to administer medications, which has had the authorization to administer medications revoked, or otherwise loses the ability to administer medications, must advise the parent of every child in care before the

next day the program operates that the program no longer has the ability to administer medications.

(4) A child care program, whose health care consultant terminates his or her relationship with the program, will be granted a 60 day grace period to hire another health care consultant, obtain approval of a health care plan from the new health care consultant and submit the plan to the office without the child care program losing the ability to administer medications as long as:

(i) the former health care consultant did not revoke his or her approval prior to terminating the relationship with the child care program;

(ii) Caregivers who have been trained in medication administration are available to continue administration of medications as per the health care plan;

(iii) the child care program follows the approved health care plan, as currently written, for the 60-day period;

(iv) the child care program notifies the Office, within 24 hours, of the termination of the relationship with the health care consultant; and

(v) the child care program has the newly hired health care consultant review and approve the health care plan and sends the signed approved health care plan to the Office before the sixty-day window expires.

(5) Once the sixty-day period has expired if no health care plan approval is issued, the child care program will be issued a new license, which will state that it is no longer able to administer medications other than over-the-counter topical medications and emergency medications.

(e) Training for the Administration of Medications.

(1) All caregivers, except those excluded pursuant to sections 416.11(e)(5), 416.11(f), and 416.11(h)(5), of this Part who have agreed to administer medication must complete the Office-approved medication administration training or an Office-approved equivalent before administering medications to children in day care. The certification of training in the administration of medications to children in day care shall be effective for a period of three-years from the date of issuance. The caregiver must complete a recertification training approved by the Office in order to extend the certification for each additional three-year period. Where a certification lapses, the caregiver may not be recertified unless the caregiver completes the initial medication administration training or the recertification training, as required by the office. Where enforcement action has been taken against the licensee based on a failure by the program to comply with requirements for the administration of medications set forth in 416.11, the office may require retraining or may prohibit a caregiver from being involved in the administration of medications.

(2) Caregivers who will be responsible for administering medications must receive training in the methods of administering medications prior to administering any medications in a child day care setting Upon completion of the training, the caregiver must receive a written certificate from the trainer that indicates that the trainee has successfully completed this training program, as required, and demonstrated competency in the administration of medications in a day care setting.

(i) In order to be trained in the administration of medications in a day care setting, a caregiver must be literate in the language or languages in which health care instructions from parents and health care providers will be received.

(ii) Persons who receive training in the administration of medications in day care settings pursuant to this section may not otherwise administer medications or represent themselves as being able to administer medications except to the extent such persons may be able to do so in accordance with the relevant provisions of the Education Law.

(3) The training in the administration of medications must be provided by a health care provider or registered nurse who has been certified by the office to administer the office approved curriculum.

(4) The training must be documented and must include, but need not be limited to the following:

(i) Training objectives;

(ii) a description of the methods of administration including principles and techniques of application and dispensation of oral, topical, medication patches and inhalant medication, including the use of nebulizers, and the use of epinephrine auto-injector devices when necessary to prevent anaphylaxis in emergency situations with respect to the various age groups of children;

(iii) administering medication to an uncooperative child;

(iv) an evaluation of whether the trainee demonstrates competency in:

(a) understanding orders from the health care professional or licensed authorized prescriber;

(b) the ability to correctly carry out the orders given by the health care provider or licensed authorized prescriber;

(c) recognition of common side effects of medications and ability to follow written directions regarding appropriate follow-up action;

(d) avoidance of medication errors and what action to take if an error occurs;

(e) understanding relevant commonly used abbreviations;

(f) maintaining required documentation including the parent's permission, written orders from health care professionals and licensed authorized prescribers, and the record of administration of medications;

(g) safe handling of medications, including receiving medications from a parent

(h) proper storage of medications, including controlled substances; and

(i) safe disposal of medications.

(5) A person who can produce a valid New York State license as a physician, physician's assistant, registered nurse, nurse practitioner, licensed practical nurse or advanced emergency medical technician will not be required to attend the training required by section 416.11(e) of this Part in order to administer medications in a day care program. Documentation establishing the person's credentials in one of the above fields will be required and a copy of the documentation must be provided to the Office.

(f) Administration of Medication.

(1) Caregivers may administer medication only in accordance with the following:

(i) All programs that choose to administer medications other than epinephrine auto injectors, diphenhydramine in combination with the auto injector, asthma inhalers and nebulizers, topical ointments, lotions, creams and sprays to children must have a health care consultant of record and must address the administration of medications in the health care plan in accordance with the requirements of section 416.11 of this Part.

(ii) The program must confer with a health care consultant regarding the program's policies and procedures related to the administration of medications. This consultation must include a review of the documentation that all caregivers authorized to administer medications have the necessary professional license or have completed the necessary training.

(iii) Policies regarding the administration of medications must be explained to the parent at the time of enrollment of the child in care and when substantive changes are made thereafter. Parents must be made familiar with the policies of the day care program relevant to the administration of medications.

(iv) Nothing in Part 416 shall be deemed to require any caregiver to administer any medication, treatment, or other remedy except to the extent that such medication, treatment or remedy is required under the provisions of the Americans with Disabilities Act.

(v) Nothing in Part 416 shall be deemed to prevent a parent, or relative within the third degree of consanguinity of the parents or step-parents of a child, even if such a person is an employee or volunteer of the program, from administering medications to a child while the child is attending the program even if the licensee has chosen not to administer medications or if the caregiver designated to administer medications is not present when the child receives the medication.

(2) If the licensee elects not to administer medications, the caregiver must still document the dosages and time as per section 416.11(f)(9) of this Part that the medications were given to the child by the child's parent, or relative within the third degree of consanguinity of the parents or step-parents of the child.

(i) Relatives within the third degree of consanguinity administering medications to the child in day care must be at least 18 years of age, unless that relative is the parent of the child.

(ii) If the only administration of medication in a day care program is done by a parent, or relative within the third degree of consanguinity of the parents or step-parents of a child, the caregivers of the program do not have to complete the administration of medication training requirements pursuant to section 416.11(e).

(3) No child in care will be allowed to independently administer medications, except for those medications administered pursuant to section 416.11(h)(6) of this Part, without the assistance and direct supervision of caregivers that are authorized to administer medications pursuant to section 416.11 of this Part. Any program that elects to offer the administration of medication to children when children who attend the program independently administer medications or when children assist in the administration of their own medications must comply with all the provisions of section 416.11 of this Part.

(4) Caregivers may administer prescription and non-prescription (over-the-counter) medications for eyes or ears, oral medications, topical ointments, creams, lotions, sprays and medication patches and inhaled medications in accordance with section 416.11 of this Part.

(5) Caregivers may not administer medications by injection, vaginally or rectally except as follows:

(i) where the caregiver has been certified to administer medications in a day care setting and the parent and the child's health care provider have indicated such treatment is appropriate and received instruction on the administration of the medication; or

(ii) for a child with special health care needs, where the parent, day care program and the child's health care provider have agreed on a plan pursuant to which the caregiver may administer medications by injection, vaginally or rectally; or

(iii) where the caregiver has a valid license as a physician, physician's assistant, registered nurse, nurse practitioner, licensed practical nurse or advanced emergency medical technician.

(6) A caregiver authorized to administer medication who agrees to administer medications to a child must do so, unless they observe the circumstances, if any, specified by the health care provider or the medication label, under which the medication must not be administered. In such instances, the caregiver must contact the parent immediately.

(7) Permissions needed from parent and/or health care provider in order to administer medications.

(i) Over-the-counter products, including but not limited to over-the-counter topical ointments, lotions, creams, sprays, including sunscreen products and topically applied insect repellant can be administered by a caregiver for one day only, with verbal permission of the parent. If an over-the-counter product is to be administered on a subsequent day or an ongoing basis, written permission from the parent must have been provided to the caregiver.

(ii) For children less than eighteen months of age, prescription medications, oral over-the-counter medications, medicated patches, and eye, ear, or nasal drops or sprays, can be administered by a caregiver for one day only, with verbal permission of the parent and verbal instructions directly from the health care provider or licensed authorized prescriber. If prescription medications, oral over-the-counter medications, medicated patches, and eye, ear, or nasal drops or sprays are to be administered on a subsequent day or an ongoing basis, written permission from the parent and written instructions from the health care provider must have been provided to the caregiver prior to such administration.

(iii) For children eighteen months of age and older, prescription medications, oral over-the-counter medications, medicated patches, and eye, ear, or nasal drops or sprays, can be administered by a caregiver for one day only, with the oral approval of the parent. If prescription medications, oral over-the-counter medications, medicated patches, and eye, ear, or nasal drops or sprays are to be administered on a subsequent day or an ongoing basis, written permission from the parent and written instructions from the health care provider must have been provided to the caregiver prior to such administration.

(iv) A caregiver cannot administer medication to any child in care, if the parent’s instructions differ from the instructions on the medication’s packaging, until the child care provider receives permission from a health

care provider or licensed authorized prescriber on how to administer the medication.

(v) The caregiver must immediately notify the parent if the caregiver will not administer medication due to differing instructions related to the administration of medication.

(8) Caregivers who are authorized to administer medications must administer medication as follows:

(i) to the right child,

(ii) at the right dose,

(iii) at the right time,

(iv) with the right medication, and

(v) through the right route.

(9) Documentation of Medication Administration

(i) At the time of administration, the caregiver must document the dosages and time that the medications are given to the child.

(ii) All observable side effects must be documented and communicated to the parent, and when appropriate, the child's health care provider.

(iii) Documentation must be made if the medication was not given and the reason for such a decision.

(10) The parent must be notified immediately and the Office must be notified within 24 hours of any medication administration errors. Notification to the Office must be reported on a form provided by the Office or on an approved equivalent.

(11) All verbal permissions received pursuant to section 416.11(f) of this Part must be documented.

(12) Caregivers who are authorized to administer medications must be literate in the language for which the permissions and instructions for use are written.

(13) Medication must be returned to the parent or guardian when it is no longer required by the child or, with the permission of the parent or guardian, be properly disposed of by the caregiver.

(14) Where the program has received written permission of the parent and written instructions from the health care provider authorizing administration of a specified medication if the caregiver observes some specified condition or change of condition in the child while the child is in care, the caregiver may

administer the specified medication, without obtaining additional authorization from the parent or health care provider.

(15) Prescription and over-the-counter medications must be kept in their original bottles or containers.

(16) Prescription medication labels must include the following information or be available through the licensed authorized prescriber on the form provided by the Office or equivalent form:

(i) Child's first and last name;

(ii) Licensed authorized prescriber's name, telephone number, and signature;

(iii) Date authorized;

(iv) Name of medication and dosage;

(v) Frequency the medication is to be administered;

(vi) Method of administration;

(vii) Reason for medication (unless this information must remain confidential pursuant to law);

(viii) Most common side effects or reactions; and

(ix) Special instructions or considerations, including but not limited to possible interactions with other medications the child is receiving, or concerns regarding the use of the medication as it relates to a child's age, allergies, or any pre-existing conditions.

(17) Medications must be kept in a clean area that is inaccessible to children.

(18) If refrigeration is required, the medication must be stored in either a separate refrigerator or a leak-proof container in a designated area of a food storage refrigerator, separated from food and inaccessible to children.

(19) Day care programs must comply with all Federal and State requirements for the storage and disposal of all types of medications, including controlled substances.

(20) In the case of medication that needs to be given on an ongoing, long-term basis, the authorization and consent forms for children 5 years of age or older must be reauthorized at least once every 12 months. Any changes in the medication authorization related to dosage, time or frequency of administration shall require a program to obtain new instructions written by the licensed authorized prescriber. All other changes to the original medication authorization require a change in the prescription.

(21) In the case of medication that needs to be given on an ongoing, long-term basis, the authorization and consent forms for children under the age of 5 years of age must be reauthorized at least once every six months. Any changes in the medication authorization related to dosage, time or frequency of administration shall require a program to obtain new instructions written by the licensed authorized prescriber. All other changes to the original medication authorization require a change in the prescription.

(g) Stocking medications.

(1) A child care program may keep a supply of over-the-counter medications at a program site to be used in the event that a child in the program develops symptoms while in care that indicate the need for over-the-counter medication.

(2) Child care programs that store and administer medication that is not labeled for a specific child must have an over-the-counter stock medication policy in place before beginning to store any over-the-counter medications. The over-the-counter stock medication's policy must address the safe storage and proper administration of the stored over-the-counter medication and must address the need for strict infection control practices as they pertain to stock medication.

(3) Stock medication must be kept in a clean area that is inaccessible to children and any stock medication must be stored separate from child specific medication.

(4) Stock medications must be kept in the original container and have the following information on the label or in the package insert:

(i) Name of the medication,

(ii) Reasons for use,

(iii) Directions for use, including route of administration,

(iv) Dosage instructions,

(v) Possible side effects and/or adverse reactions,

(vi) Warnings or conditions under which it is inadvisable to administer the medication, and

(vii) Expiration date.

(5) Child care programs that stock supplies of over-the-counter medication, which are not in single dose packaging, must provide a separate mechanism to administer the medication for each child that may need the medication. Once a device has been used for a specific child in care, that specific device must be disposed of or reused only for that specific child and must be labeled with the child's first and last name. The program must include the procedure in the over-the-counter stock medication policy for dispensing the stock medication from the

container to the device, or directly administering to the child, without contaminating the stock medication.

(6) All stock medication must be administered using best practice techniques in accordance with the directions for use on the medication package.

(7) Group Family day care programs may not stock prescription medication.

(h) Emergency care and the Administration of Epinephrine, Diphenhydramine in combination with the auto injector, Asthma inhalers and Nebulizers.

(1) The caregivers must immediately call 911 for children who require emergency medical care for children who require such care and also must:

(i) obtain written consent at the time of admission from the parent which authorizes the provider or other caregivers to obtain emergency health care for the child;

(ii) arrange for the transportation of any child in need of emergency health care, and for the supervision of the children remaining in the program;

(iii) in the event of an accident or illness requiring immediate health care, secure such care and notify the parent; and

(iv) advise a parent or the person authorized to pick up the child that day, of any developing symptoms of illness or minor injury sustained while child is in care.

(2) The home must be equipped with a portable first aid kit which is accessible for emergency treatment. The first aid kit must be stocked to treat a broad range of injuries and situations and must be restocked as necessary. The first aid kit and any other first aid supplies must be kept in a clean, covered container or cabinet inaccessible to children.

(3) Rectal thermometers may not be used.

(4) The caregivers must provide a child who has or develops symptoms of illness a place to rest quietly that is in the view of, and under the supervision of a caregiver until the child receives medical care or the parent or approved parental designee arrives. In the event that a child has or develops symptoms of illness, the caregiver is responsible for immediately notifying the parent.

(5) When a caregiver has not been authorized to administer medications in a day care setting in accordance with the requirements of section 416.11(f) of this Part, such caregiver may administer emergency care through the use of epinephrine auto-injector devices, diphenhydramine, when prescribed in combination with the auto injector, asthma inhaler and asthma nebulizer when necessary to prevent anaphylaxis or breathing difficulty for an individual child but only when the parent and the child's health care provider have indicated such treatment is appropriate. In addition:

(i) A written Individual Health Care Plan must be developed for the child;

(ii) The child's health care provider must issue a standing order and prescription for the medication;

(iii) The parent must approve, in writing, the administration of the medication as prescribed by the health care provider and keep medications current;

(iv) All caregivers administering an emergency medication pursuant to section 416.11(g)(5) of this Part, must be instructed on its use; and, the instruction must be provided by the parent, the child's health care provider or a health care consultant;

(v) A caregiver who has been instructed on the use of the auto injector, diphenhydramine, inhaler or nebulizer must be present during all hours the child with the potential emergency condition is in care;

(vi) The caregiver administering the auto-injector, diphenhydramine, asthma medication or nebulizer must be at least 18-years-old;

(vii) The caregiver must immediately contact 911 after administration of epinephrine;

(viii) If an inhaler or nebulizer for asthma is administered, a caregiver must call 911 if the child's breathing does not return to its normal functioning after its use; and

(ix) Storage, documentation of the administration of medication and labeling of the auto-injector, asthma inhaler and asthma nebulizer must be in compliance with Section 416.11 of this Part.

(6) When a program is approved to administer an inhaler to a child with asthma or other diagnosed respiratory condition, or an epinephrine auto injector for anaphylaxis, a school-aged child may carry and use these devices during day care hours if the program secures written permission of such use of a duly authorized health care provider, parental consent and completes a special health care plan for the child.

(7) The special health care plan, parental consent and health care provider consent documenting permission for a school-age child to carry an inhaler or auto injector must be maintained on file by the program.

(i) Infection Control.

(1) Caregivers and volunteers must thoroughly wash their hands with soap and running water at the beginning of each day, before and after the administration of medications, when they are dirty, after toileting or assisting children with toileting, after changing a diaper, before and after food handling or eating, after handling

pets or other animals, after contact with any bodily secretion or fluid, and after coming in from outdoors.

(2) Caregivers and volunteers must ensure that children thoroughly wash their hands or assist children with thoroughly washing their hands with soap and running water when they are dirty, after toileting, before and after food handling or eating, after handling pets or other animals, after contact with any bodily secretion or fluid, and after coming in from outdoors.

(3) For diapered children, caregivers and volunteers must ensure that adequate steps are taken to clean the child after each change of diaper.

(4) Caregivers must assist children in keeping clean and comfortable, and in learning appropriate personal hygiene practices.

(5) Children in night care shall have a routine that encourages good personal hygiene practices.

(6) Each child shall have an individual washcloth, towel and toothbrush. When evening or night care is provided each child shall have the opportunity to change into night clothes and wash before bed. The caregiver will give each child a shower, bath, or sponge bath in a manner agreed between the parent and the program.

(7) When soap and running water is not available, hand sanitizer may be used by children and caregivers and volunteers on visibly clean hands. Package directions must be followed including supervision of children so that ingestion does not occur.

(i) When soap and running water is not available and hands are visibly soiled, individual wipes may be used in combination with hand sanitizer.

(ii) The use of hand sanitizers on children under the age of two (2) years is prohibited.

(8) Safety precautions relating to blood must be observed by all caregivers and volunteers as follows:

(i) Disposable gloves must be immediately available and worn whenever there is a possibility for contact with blood, including but not limited to:

(a) changing diapers where there is blood in the stool;

(b) touching blood or blood-contaminated body fluids;

(c) treating cuts that bleed; and

(d) wiping surfaces stained with blood.

(ii) In an emergency, a child's well-being must take priority. A bleeding child must not be denied care because gloves are not immediately available.

(iii) Disposable gloves must be discarded after each use.

(iv) If blood is touched accidentally, the exposed skin must be thoroughly washed with soap and running water.

(v) Clothes contaminated with blood must be placed in a securely tied plastic bag and returned to the parent at the end of the day.

(vi) Surfaces that have been blood stained must be cleaned and then disinfected with an Environmental Protection Agency (EPA) registered product that has an EPA registration number on the label.

(9) Sufficient and suitable clothing must be available so that children who dirty or soil their clothing may be changed. All such clothing must be returned to parents for washing or must be washed by the caregiver.

(10) Children must be kept clean and comfortable at all times. Diapers must be changed when wet or soiled. The diaper changing area must be as close as possible to a sink with soap and hot and cold running water. This area or sink must not be used for food preparation. Diaper changing surfaces must be cleaned and disinfected after each use with an Environmental Protection Agency (EPA) registered product that has an EPA registration number on the label.

(11) The program must make arrangements with the parent to provide an adequate supply of disposable or cloth diapers. When cloth diapers are used they must be supplied by a parent or commercial diaper service.

(12) When disposable diapers are used, soiled diapers must be disposed of immediately into an outside trash disposal, or placed in a tightly covered plastic-lined trash can inaccessible to children until outdoor disposal is possible.

(13) Non-disposable diapers must not be laundered in the group family care home and must be stored in a securely covered receptacle until returned to the diaper service. When parents provide non-disposable diapers, soiled diapers must be placed in a securely tied plastic bag and returned to the parent at the end of the day.

(14) Toilet facilities must be kept clean at all times, and must be supplied with toilet paper, soap and towels accessible to the children.

(15) Toileting equipment, such as potty chairs, appropriate to the toilet training level of the children in the group must be provided.

(16) When more than one child in the program is being toilet trained, potty chairs must be emptied, cleaned and then sanitized or disinfected after each use with

an Environmental Protection Agency (EPA) registered product that has an EPA registration number on the label.

(17) If only one child in the program is being toilet trained, potty chairs must be emptied and rinsed after each use and cleaned and then sanitized daily with a sanitizer or disinfectant with an Environmental Protection Agency (EPA) registered product that has an EPA registration number on the label.

(18) Potty chairs must not be washed out in a hand washing sink, unless that sink is cleaned, then sanitized or disinfected after such use.

(19) Either disposable towels or individual cloth towels for each child must be used. If individual cloth towels are used, they must be laundered daily.

(20) Sharing personal hygiene items, such as washcloths, towels, toothbrushes, combs and hairbrushes, is prohibited.

(21) All rooms, equipment, surfaces, supplies and furnishings accessible to children must be cleaned and then sanitized or disinfected, using an EPA registered product, as needed to protect the health of children, and in a manner consistent with the program's health care plan approved by the Office.

(22) The premises must be kept clean and free from dampness, odors and the accumulation of trash.

(23) The premises must be kept free of vermin.

(24) Equipment that is frequently used or touched by children on a daily basis must be cleaned and then sanitized or disinfected, using an EPA registered product, when soiled and at least once weekly.

(25) Carpets contaminated with body fluids must be spot cleaned.

(26) Extensive cleaning, such as shampooing carpets or washing windows and walls, must occur when children are not present.

(27) Garbage receptacles must be covered and cleaned as needed after emptying.

(28) Thermometers and toys mouthed by children must be washed and disinfected using an EPA registered product before use by another child.

(29) Individual drinking cups or disposable cups must be provided daily. Once a drinking cup or eating utensils have been used by a child they may not be used by another child unless they are washed first.

(30) Between uses, dishes and utensils must be washed with soap and hot water and rinsed in hot running water.

(31) Linens, blankets and bedding must be cleaned at least weekly and before use by another child. Cribs, cots, beds, mats and mattresses must be cleaned thoroughly between uses by different children and at least monthly.

(32) Sanitizers and disinfectants must be used as directed on the product label.

(j) Pesticide use.

(1) Any application of pesticides (as the term pesticide is defined in section 33-0101 of the Environmental Conservation Law) shall be completed in accordance with the requirements of section 390-c of the Social Services Law and sections 33-1004 and 33-1005 of the Environmental Conservation Law.

(2) In addition to the requirements of section 390-c of the Social Services Law, each day care facility must send a notice home with each child or otherwise provide notification to the parent of each child not less than forty-eight hours prior to the application of pesticides. Such notice must include:

(i) the location and specific date of the application of pesticides and may include two alternate dates in the event that an outdoor application cannot be made due to weather conditions;

(ii) the pesticide product name and pesticide registration number assigned by the United States Environmental Protection Agency;

(iii) the following statement: "This notice is to inform you of a pending pesticide application at this facility. You may wish to discuss with a representative of the day care facility what precautions are being taken to protect your child from exposure to these pesticides. Further information about the product or products being applied, including any warnings that appear on the label of the pesticide or pesticides that are pertinent to the protection of humans, animals or the environment, can be obtained by calling the National Pesticide Information Center at 1-800-858-7378 or the New York State Department of Health Center for Environmental Health Info Line at 1-800-458-1158"; and

(iv) the name of a representative of the day care facility and contact number for additional information.

(3) Any day care program that fails to send the appropriate notice of pesticide application as set forth in section 416.11(j) of this Part, for a first such violation, shall be issued a written warning in lieu of penalty. For a second violation, such program shall be subject to a penalty not to exceed one hundred dollars. For any subsequent violation, such program shall be subject to a penalty not to exceed two hundred fifty dollars for each violation. No penalty may be assessed by the Commissioner without affording the licensee with notice and an opportunity for a hearing pursuant to section 413.5 of this Article.

(4) Any finding by the Department of Environmental Conservation of a violation by the program of the requirements set forth in sections 33-1004 or 33-1005 of

the Environmental Conservation Law shall be deemed a safety hazard to children in care and a violation of this section.

416.12 Nutrition

(a) The group family day care program must provide sufficient and nutritious snacks to children.

(b) The program must ensure that each child in care for more than four hours a day receives a nutritious meal.

(c) Each child in care for more than ten hours a day must receive a minimum of two nutritious meals.

(d) Food must be prepared and stored in a safe and sanitary manner and served at appropriate intervals.

(e) If the program does not furnish meals, there must be adequate supplemental food available in the event that no meal is provided by the parent or if the meal provided by the parent is inadequate or of inadequate nutritional value.

(f) Programs changing their meal policy must provide adequate notice to parents.

(g) When meals are furnished by the program, food preferences for personal, religious or medical reasons may be accommodated. If resultant meal patterns or serving sizes will not meet the child's nutritional needs, a medical statement must be obtained documenting the appropriateness of the variation.

(h) When meals are furnished by the program, the servings must be in portions suitable for the size and age of the children in care, including infants. There must be a sufficient amount of food available to children to permit second helpings of nutritious foods.

(i) Children must be helped to gain independence in feeding themselves and should be encouraged to learn acceptable table manners appropriate to their developmental levels.

(j) Sufficient time, based on age and individual needs, must be allowed for meals so that children will not be hurried.

(k) Perishable food, milk and infant formula must be kept refrigerated.

(l) Safe drinking water must be available to children at all times and must be offered at intervals that are responsive to the needs of the individual children.

(m) Disposable cups, plates and utensils may be used if discarded after use. Plastic eating utensils may be used if such utensils are not easily broken by young children and are discarded after use. Styrofoam cups may not be used for infants or toddlers.

(n) The program must obtain a written statement, from the parent of each infant in care, setting forth the breast milk, formula and feeding schedule instructions for the infant and must be updated as changes are made.

(o) Where infant formula is required, such formula may be prepared and provided by the parent, or by the program when agreed to in writing by the parent.

(p) The program must develop a plan for introducing age-appropriate solid foods in consultation with the parent.

(q) If more than one child in the program is receiving breast milk, infant formula or other individualized food items, all containers or bottles must be clearly marked with the child's first and last name.

(r) Unused portions of bottles or containers from which children have been spoon-fed must be discarded after each feeding or placed in a securely tied plastic bag and returned to the parent at the end of the day.

(s) Heating infant formula, breast milk and other food items for infants in a microwave oven is prohibited.

(t) If foods for older children are heated in a microwave, the food must be stirred and allowed to reach serving temperature before serving to prevent burns from hot spots.

(u) All devices used to warm breast milk, formula or food for infants, must be kept at a low temperature not exceeding 120°.

(v) A caregiver or volunteer must not hold an infant while removing a bottle or infant food from a crock pot or other warming device.

(w) All devices used for warming bottles or food must be kept out of reach of children.

(x) Every effort must be made to accommodate the needs of a child who is being breast-fed.

(y) Infants six months of age or younger must be held while being bottle-fed. Infants over six months of age must be held while being bottle-fed until the infant consistently demonstrates the capability of holding the bottle and ingesting an adequate portion of the contents thereof.

(z) The propping of bottles is prohibited.

(aa) Each infant and toddler must be removed from the crib, playpen or cot and held or placed in an appropriate chair for feeding.

(ab) Children may not be placed in a crib with a bottle, food or drink.

(ac) A caregiver or volunteer must not force or bribe a child to eat nor use food as a reward or punishment.

(ad) Fluid milk, 100% juice and water, are the only beverages a caregiver may provide to children in the program.

(ae) When milk is served as a beverage, low-fat or fat-free milk (1% fat or less) must be served to children two years of age or older.

(af) When provided by the parent, beverages are not subject to the regulatory beverage standards.

(ag) All children with dietary restrictions based on a child's medical condition or religious beliefs of the family are exempt from the regulatory beverage requirements, when instructed in writing by the parent to the program.

(ah) The program must share information on healthy food and beverage choices and the prevention of childhood obesity with the parent.

(ai) Individual children's food allergies must be posted in a discreet location visible only to caregivers.

(aj) Caregivers must take steps to prevent a child's exposure to the foods to which the child is allergic

416.13 Caregiver Qualifications

(a) The provider, assistant(s), and substitutes must each meet the following qualifications:

(1) be at least 18 years old;

(2) have a minimum of either two (2) years of experience caring for children under six years of age, or one (1) year of experience caring for children under six years of age plus six hours of training or education in early childhood development. The phrase "experience caring for children" can mean child-rearing as well as paid and unpaid experience caring for children. The term "training" can mean educational workshops and courses in caring for preschool-age children;

(3) be capable of providing, and agree to provide, safe and suitable care to children which is supportive of the children's physical, intellectual, emotional and social well-being;

(4) provide to the Office the names, addresses and daytime telephone numbers of at least two acceptable references, other than relatives. At least one of the references must be able to attest to the employment history, work record and qualifications, if the person had ever been employed outside the home. At least one of the references must be able to attest to the character, habits and personal qualifications to be a group family day care provider, assistant, or substitute; and

(5) submit a satisfactory medical statement, as required in section 416.11(b).

(b) All child day care providers, employees, volunteers and any person age eighteen (18) or older living or who begins to live in a group family day care home are required to comply with the criminal history review provisions of this Part and Part 413 of this Title.

(c) All child day care providers, employees, volunteers and any person age eighteen (18) or older living or who begins to live in a group family day care home hired after June 30, 2013, must comply with the background check requirements for the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs pursuant to Section 495 of the Social Services Law.

(d) All child day care providers, employees, volunteers and any person age eighteen (18) or older living or who begins to live in a group family day care home are required to complete a Statewide Central Register database check.

(e) A person applying to be the provider must have completed a health and safety training as required in section 416.14(a) of this Part before being approved for that role.

(f) A person is not approved to be a caregiver until the child care program receives written approval from the Office.

(g) After completion of required inquiries to the Statewide Central Register of Child Abuse and Maltreatment as provided for in this section and all other criminal history review and background clearances as provided for in section 413.4 of this Title, the Office shall notify the applicant and program whether the applicant is authorized or unauthorized to care for children based on the outcome of such inquiries.

416.14 Training

(a) Before the Office issues an application for a group family day care license to a person or entity who has yet to hold an Office of Children and Family Services day care license, that applicant must complete an Office-approved pre-application orientation session.

(b) Before the Office issues an initial license, the applicant must complete a health and safety training course approved by the Office relating to the protection of the health and safety of children and must demonstrate basic competency with regard to health and safety standards. Such training must comply with the federal minimum health and safety pre-service training requirements. Health and safety training received prior to issuance of the license, may be applied to the initial fifteen (15) hours of training required pursuant to section 416.14(c)(1) of this Part provided that such training was received within twelve (12) months of licensure. If an applicant does not become licensed or registered within two years of successfully completing the health and safety training, the coursework must be repeated.

(1) Each applicant must complete the Office-approved training that complies with the federal minimum health and safety pre-service training requirements or three-month orientation period training requirements. This training must be obtained preservice or within three months of starting such position. Individuals who have completed the Office approved training that complies with federal health and safety requirements may be left unsupervised with children. Any employee or volunteer who does not complete this training must not be left unsupervised with children in care until such times as the training has been completed.

(c) Each employee and volunteer must complete a minimum of thirty (30) hours of training every two years. The required 30 hours of training every two years is subject to the following conditions:

(1) Fifteen of the required thirty (30) hours of training must be obtained during the person's first six months at the program.

(2) A minimum of five (5) hours of Office-approved training must be obtained each year which addresses topics or subject matters set forth in 416.14(f).

(d) reserved

(e) reserved

(f) Training must address all topics or subject matters required by state and federal law. The required state topics are:

(1) principles of childhood development, focusing on the developmental stages of the age groups for which the program provides care;

(2) nutrition and health needs of infants and children;

(3) child care program development;

(4) safety and security procedures;

(5) business record maintenance and management;

(6) child abuse and maltreatment identification and prevention;

(7) statutes and regulations pertaining to child care;

(8) statutes and regulations pertaining to child abuse and maltreatment; and

(9) education and information on the identification, diagnosis and prevention of shaken baby syndrome.

(g) Training received before the application has been approved and the license granted, may be counted towards the initial fifteen (15) hours required in section 416.14(c)(1) of this Part provided that such training was completed within twelve (12) months of licensure. When a program has submitted a renewal application, and the provider and assistant(s) have satisfied the 30-hour training requirement for the current licensing period, the provider and assistant(s) will be credited with any additional training hours taken during that time that exceed the 30 hours, toward the new licensing period.

(h) Training received within the ninety (90) day period prior to the two-year mid-point in the four-year licensing cycle, may count toward the next two-year period, if the training requirement for the first two years of the license has been met. Individuals must still obtain a minimum of five (5) hours of training annually pursuant to section 416.14(c)(2).

(i) For the thirty (30) hours of training that must be received every two years after the first period of licensure, any provider or assistant who can demonstrate to the Office basic competency in a particular topic may determine in which of the specified topics he or she needs further study. The Office may also exempt any provider or assistant from participating in training on a particular topic upon demonstration of substantially equivalent knowledge or experience related to that topic. All persons with such exemptions must still complete a minimum of thirty (30) hours of training during each two-year period, and a minimum of 5 hours of training each year.

(j) Each provider or assistant must submit verification of completion of the training requirements to their program's designated licensing office.

(k) All training that counts toward the required thirty (30) hours must be approved by the Office of Children and Family Services as per Office policies regarding training and trainers.

(l) Caregivers who will be responsible for administering medications must receive training pursuant to Section 416.11(e) of this Part.

(m) All child care programs must have at least one caregiver who holds a valid certification in cardiopulmonary resuscitation (CPR) and first aid on the premises of the child care program during the program's operating hours.

(n) CPR and first aid certifications must be appropriate to the ages of the children in care. All certifications in CPR and first aid must contain an in-person competency component.

(o) The caregiver(s) who holds the valid certification in CPR and First Aid must have their certification available for review during their working hours at the program on file.

(p) A licensee operating more than one licensed or registered family-based day care program must complete an Office-approved training in the management and administration of multiple day care sites. This training may be counted toward the 30 hours of required training and must be completed within one year of the effective date of these regulations.

416.15 Management and Administration

(a) General licensing requirements.

(1) Obtain a License and Operate in Compliance with Applicable Laws and Regulations

(i) Each group family day care home must obtain a license from the Office. No person or entity may operate a group family day care home without a license from the Office.

(ii) Each group family day care home must operate in compliance with the regulations of the Office and all other applicable laws and regulations.

(iii) Each group family day care home must operate in compliance with all emergency health guidance promulgated by the Department of Health in the interest of public health during a designated public health emergency. Provided that, during a designated public health emergency, any relevant emergency directives from the executive chamber or from the Department of Health shall supersede regulations of the Office in the case of any conflict.

(2) Each group family day care home which has been issued a license by the Office must openly display such license and all waivers, limitations and restrictions in the home for which it was issued.

(i) The program must post or display conspicuously in a place to which parents have free and daily access, a copy of the most recent compliance history report immediately after it is issued to the program by the Office.

(3) A new application for a license must be submitted to the Office when there is a change in the address, or change in the provider of an entity-owned child care program, or when a license is sought following the Office's revocation of, or denial of a license.

(4) Under no circumstances will a group family day care licensee or family day care registrant be permitted to hold more than one group family day care license or a family day care registration simultaneously. However, nothing contained herein shall prohibit the continued operations of programs already licensed or registered prior to the effective date of these regulations, unless the license or registration of the home is revoked, terminated or suspended pursuant to the procedures set forth in section 413.3 of this article.

(5) When the group family child day care licensee is an individual, that person must be the Provider, as defined in section 413.2(c)(12) of this Article. However, nothing contained herein shall prohibit the continued operation of programs already licensed or registered, where a person other than the licensee has been named as the Provider, where the program was licensed or registered prior to the effective date of these regulations, unless the license or registration of the home is revoked, terminated or suspended pursuant to the procedures set forth in section 413.3 of this Article.

(6) When the group family child care licensee is an entity other than an individual, the person named as the Provider, as defined in Part 413.2(c)(12) must be a person with a business interest, as defined in 413.2(d)(19), of at least 51 percent share of ownership in the entity. However, nothing contained herein shall prohibit the continued operation of programs already licensed or registered prior to May 1, 2014, where a person other than a person with a business interest in the entity has been named as the Provider, unless the license or registration of the home is revoked, terminated or suspended pursuant to the procedures set forth in section 413.3 of this Article.

(7) Under no circumstances may there be more than one licensed or registered child day care program in any one dwelling unit in a personal residence.

However, nothing contained herein shall prohibit the continued operation of more than one licensed or registered family or group family day care home in a personal residence where all such homes in the personal residence were licensed or registered prior to March 1, 2002, unless the license or registration of the home is revoked, terminated or suspended pursuant to the procedures set forth in section 413.3 of this Article.

(8) In a personal residence where more than one licensed or registered family or group family day care home was located prior to March 1, 2002, the maximum capacity of all licensed and registered family and group family day care homes in the residence shall not under any circumstances exceed 20 children in total, including school-age children who receive care for only part of the day, and no individual group family day care home located in such a residence may have a maximum capacity of more than 10 children, including school-age children who receive care for only part of the day. Each such licensed and registered family and group family day care home must be operated as a separate facility and must have separate emergency exits sufficient to meet the requirements of section 416.4 or 417.4 of this Article, as appropriate.

(9) The provisions specified on the license are binding and the group family day care home must operate in compliance with the terms of the license. The number and age range of children specified thereon are the maximum number and age range of children who may be in the care of the group family day care home at any one time.

(10) No license will be issued unless the licensee is in full compliance with the regulations of the Office and all other applicable laws and regulations except where a waiver of one or more requirements of this Part has been approved in writing by the Office in accordance with section 413.6 of this Article.

(11) The effective period of the license for a group family day care home will be up to four years so long as the licensee remains in compliance with applicable laws and regulations during such periods.

(12) A license is not transferable to any other person, entity or location.

(13) Group family day care homes required to be licensed with the Office will not be exempt from this requirement through registration with another State agency or certification, registration or licensure by any local governmental agency or authorized agency; and

(14) Before denial of an application for licensure or renewal of licensure, the licensee is entitled to a hearing before the Office pursuant to section 413.5 of this Article.

(b) General operation requirements.

(1) Individual children must be cared for less than 24 hours a day. No caregiver may work more than two consecutive shifts.

(2) The licensee must make a written request to the Office before providing an additional shift of care beyond what was specified and approved in the initial application.

(3) The licensee cannot provide an additional shift of care until the changes have been approved in writing by the Office.

(4) The caregivers, employees, volunteers and all members of the household must be in good health and be of good character and habits.

(5) Submission of fraudulent documents to the Office or its representatives is prohibited.

(6) Confidentiality.

(i) Information relating to an individual child is confidential and cannot be disclosed without written parental permission to anyone other than the Office, its designees or other persons authorized by law.

(ii) Information relating to an individual child may be disclosed to a social services district where the child receives a day care subsidy from the district, where the child has been named in a report of alleged child abuse or maltreatment, or as otherwise authorized by law.

(iii) Redisclosure of confidential HIV-related information, as defined in section 360-8.1 of this Title, concerning a child receiving group family day care is not permitted except in a manner consistent with article 27-F of the Public Health Law.

(7) A group family day care home may not refuse to admit a child to the home solely because the child is a child with a developmental delay or disability or has been diagnosed as having human immunodeficiency virus (HIV), HIV-related illness or acquired immune deficiency syndrome (AIDS). Each such child must be evaluated by the program to determine whether the child could be accommodated in the program if reasonable modifications are made to the premises and/or program. Nothing contained in section 416.11 of this Part, shall be deemed to require the program to incur significant additional expenses to modify the premises and/or program to accommodate such a child.

(8) The parent of any child receiving group family day care must have:

(i) unlimited and on demand access to such child;

(ii) the right to inspect all parts of the home used for child day care or which could present a hazard to the health or safety of the child whenever the parent requests at any time during the hours of operation of the home;

(iii) unlimited and on demand access to the caregivers whenever such child is in care or during the normal hours of operation; and

(iv) unlimited and on demand access to written records concerning such child except where access to such records is otherwise restricted by law.

(9) Electronic monitors and surveillance equipment.

(i) The parents of all children receiving care in a group family day care home equipped with electronic monitoring devices or surveillance cameras installed for the purpose of allowing parents to view their children in the day care setting by means of the Internet must be informed that cameras will be used for this purpose. All assistants and employees of the group family day care home must also be informed if electronic monitoring devices or surveillance cameras will be used for this purpose.

(ii) All parents of children enrolled in the group family day care home and all assistants and employees of the group family day care home must be made aware of the locations of all electronic monitoring devices or surveillance cameras used at the group family day care home.

(iii) Group family day care homes opting to install and use electronic monitoring devices or surveillance cameras must comply with all State and federal laws applicable to the use of such equipment.

(iv) Electronic monitoring devices and surveillance cameras may not be used as a substitute for competent direct supervision of children.

(v) Electronic monitoring devices or surveillance cameras are permitted to transmit images of children in common rooms, hallways and play areas only. Bathrooms and changing areas must remain private and free of all electronic monitoring devices and surveillance cameras.

(vi) Group family day care homes that use electronic monitoring devices or surveillance cameras must allow inspectors and other representatives of the Office to have access to such equipment and to have viewing privileges as required by the Office.

(vii) Parents of children, caregivers, employees and volunteers must be notified when electronic monitoring devices or surveillance cameras are used.

(viii) Group family day care homes opting to allow parents to view their children in the day care setting by means of the Internet or other electronic means must use and maintain adequate security measures at all times. Such measures include but are not limited to: frequent changes of passwords; filtering measures that prohibit public access to or viewing of day care activities via the Internet or other electronic means; and immediate corrective action in response to any report of abuse of the system or inappropriate access. Group family day care homes must also advise the parents having access to views of the day care home through the Internet or other electronic means of the importance of security in regard to such viewing and of the importance of the privacy rights of other children who may be viewed.

(10) Inspectors, Representatives of the Office and Child Protective Services

(i) A group family day care home must admit inspectors and other representatives of the Office onto the grounds and premises at any time during the hours of operation as documented with the Office on the application for group family day care. Such inspectors and representatives must be given free access to the building, the caregivers, employees and volunteers, the children and any program records.

(ii) A group family day care home must cooperate with inspectors and other representatives of the Office in regard to any inspections or investigations that are conducted by the Office or its representatives.

(iii) A group family day care home also must cooperate with local Child Protective Services staff conducting any investigation of alleged child abuse or maltreatment.

(iv) No provider, caregiver, employee, volunteer or household member may place or attempt to place an Office representative, who is performing his/her role as such, in reasonable fear of physical injury.

(v) Any intentional display of physical or verbal force, which would give an Office representative reason to fear or expect bodily harm, is prohibited.

(vi) Intentional and wrongful physical contact with an Office representative is prohibited.

(11) In hiring caregivers subsequent to issuance of a license, a program:

(i) must notify the Office immediately in writing when there is any change of caregivers;

(ii) must submit to the Office, prior to the start date the name of any new caregiver and the supporting documentation needed to complete the approval process, including:

(a) the forms necessary for the Office to inquire whether the applicant is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment,

(b) the forms necessary to check the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs pursuant to Section 495 of the Social Services Law,

(c) fingerprint images necessary for the Office to conduct a criminal history review,

(d) a sworn statement indicating whether, to the best of the applicant's knowledge, he or she has ever been convicted of a

misdemeanor or felony in New York State or any other jurisdiction, and

(e) two acceptable references;

(iii) must ensure that a medical statement has been submitted before the person has any involvement with children in care, as required in section 416.11 of this Part;

(iv) may, during the Office's review of all documentation for any proposed caregiver, continue to operate a group family day care home with any individual who is identified on the list required by section 416.15(c)(12) of this Part;

(v) may not leave the proposed caregiver in sole charge of, or unsupervised with, children until the Office approves the caregiver;

(vi) any change in email address for the provider or other designee when such change becomes effective; and

(vii) any change to contact information when such changes become effective.

(12) The group family day care home must report to the Office: any change affecting, or which reasonably might be expected to affect, those portions of the building and property in which the program is operating or which are used for the children's egress in the case of emergency; any change in household members; and any other change that would place the home out of compliance with applicable regulations.

(13) The caregivers, employees and volunteers must be familiar with the regulations governing group family day care. Such regulations must be readily accessible to the caregivers for reference purposes and must be made available for review to a parent of a child in care upon request by a parent.

(14) The caregiver must immediately notify the parent and Office upon learning of the following events involving a child which occurred while the child was in care at the program or was being transported by a caregiver:

(i) death,

(ii) serious incident,

(iii) serious injury,

(iv) serious condition,

(v) communicable disease,

(vi) transportation to a hospital.

(15) Parents must be given the opportunity to discuss issues related to their children and care of their children with the caregivers. Such opportunities must occur at the time of enrollment of the child in the program and as frequently as needed thereafter, but at least annually.

(16) The indoor and outdoor areas of the home where the children are being cared for must not be used for any other business or social purpose or non-daycare activity when children are present, such that the attention of the caregivers is diverted from the care of the children.

(17) When a program proposes to care for a child under the age of six weeks, prior approval must be obtained from the Office. In seeking such approval, the program must furnish, in writing, the following:

(i) identifying information related to the specific child who would receive care, including the parents name and address, and the child's name, gender and age;

(ii) the extenuating circumstance necessitating the care; and

(iii) a description of what the program will do to achieve consistency with the Office's guidelines for the care of children under the age of six weeks.

(18) Fire and Police Notifications

(i) Within five days after receiving the initial license and before actually commencing operation, the program must, using a form specified by the Office or an approved equivalent for that purpose, notify the local police and fire departments of the municipality within which the group family day care home is located of the following:

(a) the address of the group family day care home;

(b) the maximum capacity of the group family day care home;

(c) the age range of children that will be in care; and

(d) the hours during which children will be in care.

(ii) If the local municipality does not have a police or fire department, the sheriff of the county within which the group family day care home is located must be notified instead. The program must notify the local police and fire departments or the county sheriff, as appropriate, if there is any change in any of the information required to be provided pursuant to section 416.15(b)(18)(i) of this Part.

(19) Within five days of a household member turning eighteen (18) years of age or a person eighteen (18) years of age or older beginning to live in the residence, the program must:

(i) submit the State Central Register of Child Abuse And Maltreatment database check forms necessary to complete required screening by the Statewide Central Register of Child Abuse and Maltreatment to determine if the person is the subject of an indicated report of child abuse or maltreatment; and

(ii) submit the forms necessary to check the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs pursuant to Section 495 of the Social Services Law; and

(iii) submit the necessary fingerprint image necessary to complete the criminal history review required pursuant to section 413.4 of this Article.

(20) No person other than a caregiver may have unsupervised contact with a child in care at the program.

(21) All group family day care homes that accept direct or indirect payments from a social services district or a payment from a parent or caretaker for providing subsidized child care must comply with all relevant requirements of the child care subsidy program and Part 415 of this Article.

(22) The program must give the parent, at the time of admission of the child, a written policy statement including but not limited to:

(i) the responsibilities of the program;

(ii) the responsibilities of the parent;

(iii) the policies of the program regarding admission and disenrollment policies;

(iv) how parents will be notified of accidents, serious incidents and injuries;

(v) the plan for behavior management;

(vi) the evacuation plan;

(vii) the program activities;

(viii) a summary of the program's health policies, to include the level of illnesses the program will accommodate;

(ix) actions the program will take in the event a child is not picked up as scheduled;

(x) meal arrangements;

(xi) instructional materials on the available procedures if they suspect their child has been abused or maltreated;

(xii) how to access the regulations;

(xiii) contact information for the Office including the Child Care Complaint Line;

(xiv) transportation policy; and

(xv) as applicable, written notification that there is a firearm, shotgun, rifle or ammunition on the premises.

(23) Applicants and existing programs are required to notify the Office within 15 days if the day care home becomes licensed, registered, or certified with the Office or any other agency to provide any type of care to children or adults.

(24) Child day care programs must keep all records relevant to the current licensing period, and the immediately preceding licensing period.

(25) Mid-point requirements for four-year license holders. At the two-year calendar date in a four-year licensing cycle, a program must be in compliance with the following mid-point requirements and be able to show proof of compliance to the Office when requested:

(i) Where a program uses a private water supply, a report from a state licensed laboratory or individual, based on tests performed within the 12 months preceding the calendar date of the two-year mark in a four year license, showing that the water meets standards for drinking water established by the New York State Department of Health;

(ii) a report of inspection and approval performed by local authorities or an inspector qualified to approve fuel burning systems within the 12 months preceding the calendar date of the two-year mark in a four year license of any wood or coal burning stove, fireplace, pellet stoves or permanently installed gas space heater in use at the home; and

(iii) proof of compliance with the training requirements of section 416.14.

(26) Programs must follow safety plans developed by the Office when allegations of risk of harm to child(ren) against the program, caregiver, staff, household member, volunteer or visitor are under investigation.

(c) The program must maintain on file at the group family day care home, available for inspection by the Office or its designees at any time, the following records in a current and accurate manner:

(1) a copy of the evacuation plan, evacuation drills, and shelter-in-place drills conducted, on forms furnished by the Office or approved equivalents, as required in sections 416.4 and 416.5 of this Part;

(2) an approved health care plan on forms furnished by the Office, as required in section 416.11 of this Part;

(3) the name, address, gender, and date of birth of each child and each child's parents' names, addresses, telephone numbers and place(s) at which parents or other persons responsible for the child can be reached in case of an emergency;

(4) the names and addresses of persons authorized to take the child(ren) from the group family day care home;

(5) daily attendance records that are filled out at the time a child arrives and departs, and must include arrival and departure times;

(6) children's individual health care plans; parental consents for emergency medical treatment; child's medical statement, immunizations, and any available results of lead screening for children not yet enrolled in kindergarten or a higher grade only; the name and dosage of any medications used by a child, the frequency of administration of such medications, and a record of their administration by caregivers; daily health check documentation; a record of illnesses and injuries occurring while in care; and any indicators of child abuse or maltreatment;

(7) medical statements for the provider, assistant(s), and substitute(s) completed, as required in section 416.11 of this Part;

(8) a medical statement regarding the health of all persons residing in the group family day care home, as required in section 416.11 of this Part;

(9) a plan of program activities, as required in section 416.7 of this Part;

(10) a report of inspection and approval performed within the 12 months preceding the date of the application for licensure or renewal by a qualified person of wood or coal burning stove, fireplace, pellet stoves or permanently installed gas space heater in use at the home;

(11) where a program uses a private water supply:

(i) a report from a State-licensed laboratory or individual, based on tests performed within the 12 months preceding the date of application and every two years thereafter, showing that the water meets standards for drinking water established by the New York State Department of Health; or

(ii) if the water does not meet such standards, a description of how water for all purposes will be provided by another method acceptable to the Department of Health;

(12) a list of assistants and substitutes who are available and approved to care for the children in the group family day care home when the provider or assistant must be absent;

(13) a daily schedule documenting the arrival and departure times of each caregiver, employees and volunteers;

(14) documentation of training sessions attended in accordance with section 416.14 of this Part;

(15) when the group family day care license is issued to an entity, other than a sole proprietorship, the following additional documentation is required:

(i) a copy of the certificate of incorporation, partnership agreement, or articles of organization and any amendments thereto;

(ii) verification of filing of the certificate of incorporation, partnership agreement or articles of organization and any amendments thereto with the Secretary of State; and

(iii) a current list of the names of the board of directors, partners, or members and their addresses, telephone numbers of the current principal officers and members, and the business and civic qualifications of all such individuals;

(16) a copy of the notification form provided to the local police and fire departments or the county sheriff as required in section 416.15(b)(18) of this Part;

(17) a completed environmental hazards form provided by the Office stating that the residence and the surrounding neighborhood and environment are free from environmental hazards, as required in section 416.2(a)(13) and section 416.2(d)(4) of this Part;

(18) the napping agreement for each child in care;

(19) the transportation policy and written parental permission for the transportation of each child in care;

(20) a pool maintenance safety plan;

(21) a current cardiopulmonary resuscitation and first aid certificate as required in section 416.11 and 416.14 of this Part;

(22) if appropriate, written permission from a parent to allow a school age child to participate in activities outside the direct supervision of the caregiver and visually checked every 15 minutes;

(23) all records relevant to the current licensing period, and the immediately preceding licensing period; and

(24) a copy of the notification form provided to the parents as required in section 416.5(x) of this Part.