



Minnesota Department of **Human Services**

DATE: September 14, 2007

TO: CHILD CARE CENTERS (DHS Rule 3)

SUBJECT: Legislative Update from the 2007 Legislative Session

Minnesota Statutes, chapter 245A (Human Services Licensing Act) (See Minnesota Session Laws 2007, chapter 112). Unless otherwise noted, the changes became effective on August 1, 2007. The changes highlighted below are not a comprehensive list of all 2007 statutory changes that may impact DHS license holders.

1. Minnesota Statutes, section 245A.04, subdivision 14 [Policies and procedures for program administration required and enforceable]. A new subdivision was added to Minnesota Statutes, section 245A.04, that clarifies the responsibility of license holders to implement program policies and procedures required by statute and rule.

Subdivision 14. **Policies and procedures for program administration required and enforceable.** (a) The license holder shall develop program policies and procedures necessary to maintain compliance with licensing requirements under Minnesota Statutes and Minnesota Rules.

(b) The license holder shall:

(1) provide training to program staff related to their duties in implementing the program's policies and procedures developed under paragraph (a);

(2) document the provision of this training; and

(3) monitor implementation of policies and procedures by program staff.

(c) The license holder shall keep program policies and procedures readily accessible to staff and index the policies and procedures with a table of contents or another method approved by the commissioner.

2. Minnesota Statutes, section 245A.04, subdivision 15 [Pandemic planning]. A new subdivision was added to Minnesota Statutes, section 245A.04, that requires license holders to cooperate with state and local government disaster planning agencies to prepare for and react to pandemic emergencies.

Subdivision 15. **Pandemic planning.** Upon request, the license holder must cooperate with state and local government disaster planning agencies working to prepare for or react to emergencies presented by a pandemic outbreak.

3. Minnesota Statutes, section 245A.14, subdivision 8 [Experienced aides; child care centers]. The amendment cross-referenced Minnesota Statutes, section 245A.40 regarding first aid and CPR training applicable to experienced aides in child care centers. All child care center training requirements were moved to Minnesota Statutes, section 245A.40.

Subdivision 8. **Experienced aides; child care centers.** (a) An individual employed as an aide at a child care center may work with children without being directly supervised for an amount of time that does not exceed 25 percent of the child care center's daily hours if:

(1) a teacher is in the facility;

(2) the individual has received within the last three years first aid training that meets the requirements under section 245A.40, subdivision 3, and CPR training that meets the requirements under section 245A.40, subdivision 4;

(3) the individual is at least 20 years old; and

(4) the individual has at least 4,160 hours of child care experience as a staff member in a licensed child care center or as the license holder of a family day care home, 120 days of which must be in the employment of the current company.

(b) A child care center that uses experienced aides under this subdivision must notify parents or guardians by posting the notification in each classroom that uses experienced aides, identifying which staff member is the experienced aide. Records of experienced aide usage must be kept on-site and given to the commissioner upon request.

(c) A child care center may not use the experienced aide provision for one year following two determined experienced aide violations within a one-year period.

(d) A child care center may use one experienced aide per every four full-time child care classroom staff.

4. Minnesota Statutes, section 245A.1435 [Reduction of risk of sudden infant death syndrome in licensed programs]. A new section was added to Minnesota Statutes, Chapter 245A to reduce the risk of Sudden Infant Death Syndrome in programs that care for infants. Requires license holders to place infants to sleep on the infant's back unless documentation from the infant's parent directing an alternate sleeping position and prohibits items such as pillows and comforters from being placed in the crib with the infant. Standards are based on national research and "Back to Sleep" campaign standards and make standards consistent with current training requirements under Minnesota Statutes, section 245A.144. Child care providers must meet crib requirements under Minnesota Statutes, section 245A.146.

Section 15. [245A.1435] REDUCTION OF RISK OF SUDDEN INFANT DEATH SYNDROME IN LICENSED PROGRAMS.

When a license holder is placing an infant to sleep, the license holder must place the infant on the infant's back, unless the license holder has documentation from the infant's parent directing an alternative sleeping position for the infant, and must place the infant in a crib with a firm mattress. The license holder must not place pillows, quilts, comforters, sheepskin, pillow-like stuffed toys, or other soft products in the crib with the infant. Licensed child care providers must meet the crib requirements under section 245A.146.

5. Minnesota Statutes, section 245A.40 [Child care center training requirements]. A new section was added to Minnesota Statutes, Chapter 245A. Existing statutory and rule training standards for child care centers were moved into this section and terminology was made consistent with Minnesota's Core Competencies. There are no new training requirements. Subdivision 6 clarifies the exclusion from child passenger restraint training for providers who transport school-age children only in child care buses.

Section 21. [245A.40] CHILD CARE CENTER TRAINING REQUIREMENTS.

Subdivision 1. Orientation. The child care center license holder must ensure that every staff person and volunteer is given orientation training and successfully completes the training before starting assigned duties. The orientation training in this subdivision applies to volunteers who will have direct contact with or access to children and who are not under the direct supervision of a staff person. Completion of the orientation must be documented in the individual's personnel record. The orientation training must include information about:

- (1) the center's philosophy, child care program, and procedures for maintaining health and safety and handling emergencies and accidents;
- (2) specific job responsibilities;
- (3) the behavior guidance standards in Minnesota Rules, part 9503.0055; and
- (4) the reporting responsibilities in section 626.556, and Minnesota Rules, part 9503.0130.

Subdivision 2. **Child growth and development training.** (a) For purposes of child care centers, the director and all staff hired after July 1, 2006, shall complete and document at least two hours of child growth and development training within the first year of employment. For purposes of this subdivision, "child growth and development training" means training in understanding how children acquire language and develop physically, cognitively, emotionally, and socially. Training completed under this subdivision may be used to meet the orientation training requirements under subdivision 1 and the in-service training requirements under subdivision 7.

(b) Notwithstanding paragraph (a), individuals are exempt from this requirement if they:

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

- (2) have received a baccalaureate or master's degree in early childhood education or school-age child care within the past five years;
- (3) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to sixth grade teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or
- (4) have received a baccalaureate degree with a Montessori certificate within the past five years.

Subdivision 3. First aid. All teachers and assistant teachers in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, and at least one staff person during field trips and when transporting children in care, must satisfactorily complete first aid training within 90 days of the start of work, unless the training has been completed within the previous three years. The first aid training must be repeated at least every three years, documented in the person's personnel record and indicated on the center's staffing chart, and provided by an individual approved as a first aid instructor. This training may be less than eight hours.

Subdivision 4. Cardiopulmonary resuscitation. (a) When children are present in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, at least one staff person must be present in the center who has been trained in cardiopulmonary resuscitation (CPR) and in the treatment of obstructed airways. The CPR training must have been provided by an individual approved to provide CPR instruction, must be repeated at least once every three years, and must be documented in the staff person's records.

(b) Cardiopulmonary resuscitation training may be provided for less than four hours.

(c) Persons qualified to provide cardiopulmonary resuscitation training shall include individuals approved as cardiopulmonary resuscitation instructors.

Subdivision 5. Sudden infant death syndrome and shaken baby syndrome training.

(a) License holders must document that before staff persons care for infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. The training in this subdivision may be provided as orientation training under subdivision 1 and in-service training under subdivision 7.

(b) Training required under this subdivision must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome and shaken baby syndrome, means of reducing the risk of sudden infant death syndrome and shaken baby syndrome in child care, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) The commissioner shall make available for viewing a video presentation on the dangers associated with shaking infants and young children. The video presentation must be part of the orientation and annual in-service training of licensed child care centers. The commissioner shall provide to child care providers and interested individuals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

Subdivision 6. Child passenger restraint systems; training requirement. (a) A license holder must comply with all seat belt and child passenger restraint system requirements under section 169.685.

(b) Child care centers that serve a child or children under nine years of age must document training that fulfills the requirements in this subdivision.

(1) Before a license holder transports a child or children under age nine in a motor vehicle, the person placing the child or children in a passenger restraint must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this subdivision may be used to meet orientation training under subdivision 1 and in-service training under subdivision 7.

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

(3) Training required under this subdivision must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety Web site or by contacting the agency.

(4) Child care providers that only transport school-age children as defined in section 245A.02, subdivision

16, in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

Subdivision 7. In-service. (a) A license holder must ensure that an annual in-service training plan is developed and carried out and that it meets the requirements in clauses (1) to (7). The in-service training plan must:

- (1) be consistent with the center's child care program plan;
- (2) meet the training needs of individual staff persons as specified in each staff person's annual evaluation report;
- (3) provide training, at least one-fourth of which is by a resource not affiliated with the license holder;
- (4) include Minnesota Rules, parts 9503.0005 to 9503.0170, relevant to the staff person's position and must occur within two weeks of initial employment;
- (5) provide that at least one-half of the annual in-service training completed by a staff person each year pertains to the age of children for which the person is providing care;
- (6) provide that no more than four hours of each annual in-service training requirement relate to administration, finances, and records training for a teacher, assistant teacher, or aide; and
- (7) provide that the remainder of the in-service training requirement be met by participation in training in child growth and development; learning environment and curriculum; assessment and planning for individual needs; interactions with children; families and communities; health, safety, and nutrition; and program planning and evaluation.

(b) For purposes of this subdivision, the following terms have the meanings given them.

- (1) "Child growth and development training" has the meaning given it in subdivision 2, paragraph (a).
- (2) "Learning environment and curriculum" means training in establishing an environment that provides learning experiences to meet each child's needs, capabilities, and interests, including early childhood education methods or theory, recreation, sports, promoting creativity in the arts, arts and crafts methods or theory, and early childhood special education methods or theory.
- (3) "Assessment and planning for individual needs" means training in observing and assessing what children know and can do in order to provide curriculum and instruction that addresses their developmental and learning needs, including children with special needs.
- (4) "Interactions with children" means training in establishing supportive relationships with children and guiding them as individuals and as part of a group, including child study techniques and behavior guidance.
- (5) "Families and communities" means training in working collaboratively with families, agencies, and organizations to meet children's needs and to encourage the community's involvement, including family studies and parent involvement.
- (6) "Health, safety, and nutrition" means training in establishing and maintaining an environment that ensures children's health, safety, and nourishment, including first aid, cardiopulmonary resuscitation, child nutrition, and child abuse and neglect prevention.
- (7) "Program planning and evaluation" means training in establishing, implementing, evaluating, and enhancing program operations.

(c) The director and all program staff persons must annually complete a number of hours of in-service training equal to at least two percent of the hours for which the director or program staff person is annually paid, unless one of the following is applicable.

- (1) A teacher at a child care center must complete one percent of working hours of in-service training annually if the teacher:
 - (i) possesses a baccalaureate or master's degree in early childhood education or school-age care;
 - (ii) is licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to sixth grade teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or
 - (iii) possesses a baccalaureate degree with a Montessori certificate.
- (2) A teacher or assistant teacher at a child care center must complete one and one-half percent of working hours of in-service training annually if the individual is:
 - (i) a registered nurse or licensed practical nurse with experience working with infants;
 - (ii) possesses a Montessori certificate, a technical college certificate in early childhood development, or a child development associate certificate; or
 - (iii) possesses an associate of arts degree in early childhood education, a baccalaureate degree in child development, or a technical college diploma in early childhood development.

- (d) The number of required training hours may be prorated for individuals not employed full time or for an entire year.
- (e) The annual in-service training must be completed within the calendar year for which it was required. In-service training completed by staff persons is transferable upon a staff person's change in employment to another child care program.
- (f) The license holder must ensure that, when a staff person completes in-service training, the training is documented in the staff person's personnel record. The documentation must include the date training was completed, the goal of the training and topics covered, trainer's name and organizational affiliation, trainer's signed statement that training was successfully completed, and the director's approval of the training.

Subdivision 8. Cultural dynamics and disabilities training for child care providers.

- (a) The training required of licensed child care center staff must include training in the cultural dynamics of early childhood development and child care. The cultural dynamics and disabilities training and skills development of child care providers must be designed to achieve outcomes for providers of child care that include, but are not limited to:
 - (1) an understanding and support of the importance of culture and differences in ability in children's identity development;
 - (2) understanding the importance of awareness of cultural differences and similarities in working with children and their families;
 - (3) understanding and support of the needs of families and children with differences in ability;
 - (4) developing skills to help children develop unbiased attitudes about cultural differences and differences in ability;
 - (5) developing skills in culturally appropriate caregiving; and
 - (6) developing skills in appropriate caregiving for children of different abilities.
- (b) Curriculum for cultural dynamics and disability training shall be approved by the commissioner.
- (c) The commissioner shall amend current rules relating to the training of the licensed child care center staff to require cultural dynamics training. Timelines established in the rule amendments for complying with the cultural dynamics training requirements must be based on the commissioner's determination that curriculum materials and trainers are available statewide.
- (d) For programs caring for children with special needs, the license holder shall ensure that any additional staff training required by the child's individual child care program plan required under Minnesota Rules, part 9503.0065, subpart 3, is provided.

6. Minnesota Statutes, section 245A.66 [Requirements; maltreatment of minors]. A new section was added to Minnesota Statutes, Chapter 245A that requires license holders serving children, except for family child care and child foster care for children in license holder's residence, to establish policies and procedures to ensure that an internal review is completed and corrective action is taken when the facility has reason to know that a report of suspected or alleged maltreatment has been made. The change makes the standards for programs serving children consistent with the current standards for programs serving vulnerable adults.

Section 25. [245A.66] REQUIREMENTS; MALTREATMENT OF MINORS.

Except for family child care settings and foster care for children in the license holder's residence, license holders serving children shall:

- (1) establish and maintain policies and procedures to ensure that an internal review is completed and that corrective action is taken if necessary to protect the health and safety of children in care when the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made. The review must include an evaluation of whether:
 - (i) related policies and procedures were followed;
 - (ii) the policies and procedures were adequate;
 - (iii) there is a need for additional staff training;
 - (iv) the reported event is similar to past events with the children or the services involved; and
 - (v) there is a need for corrective action by the license holder to protect the health and safety of children in care.

Based on the results of this review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any;

- (2) identify the primary and secondary person or position who will ensure that, when required, internal

reviews are completed. The secondary person shall be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment; and
(3) document that the internal review has been completed and provide documentation showing the review was completed to the commissioner upon the commissioner's request.
The documentation provided to the commissioner by the license holder may consist of a completed checklist that verifies completion of each of the requirements of the review.

7. Minnesota Statutes, section 626.557, Reporting of Maltreatment of Minors Act. Minnesota Statutes, section 626.556, subdivision 2, paragraph (p) [Definitions]. The amendment defines "accidental" for purposes of consistency with the standard under the Reporting of Maltreatment of Vulnerable Adults Act for determining whether neglect or abuse occurred.

Subdivision 2. Definitions. As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

- (1) is not likely to occur and could not have been prevented by exercise of due care; and
- (2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence of event.

8. Licensing Moratorium [Minnesota Session Laws 2007, chapter 147, article 3, sec. 31]. A program operated by a nonpublic school program serving children 33 months of age or older is exempt from DHS licensure until July 1, 2009. This provision became effective on May 26, 2007. NOTE: If your program is a nonpublic school and serves children 33 months or older, contact Peggy Cunningham, Unit Manager, at (651) 296-4144.

LICENSING MORATORIUM.

A program operated by a nonpublic school for children 33 months or older is exempt from the human services licensing requirements in Minnesota Statutes, chapter 245A, until July 1, 2009. Nothing in this section prohibits an already licensed nonpublic school program from continuing its licensure or a nonpublic school program from seeking licensure.

EFFECTIVE DATE. This moratorium is effective the day following final enactment.

Minnesota Statutes, Chapter 245C (The Human Services Background Study Act)

9. Minnesota Statutes, section 245C.07 [Study subject affiliated with multiple facilities]. The amendment clarifies the scope of the provision requiring one background study for license holders who own multiple facilities, to include applicants or other entities, and to apply to programs licensed by the Department of Health and the Department of Corrections. Only one study is required when an individual works for multiple programs under the same license holder if the specified conditions are met. Changes terminology from "facilities" to "programs or services." (Also see the enclosure on background study information.)

245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.

(a) When a license holder, applicant, or other entity owns multiple programs or services that are licensed by the Department of Human Services, Department of Health, or Department of Corrections, only one background study is required for an individual who provides direct contact services in one or more of the licensed programs or services if:

- (1) the license holder designates one individual with one address and telephone number as the person to receive sensitive background study information for the multiple licensed programs or services that depend on the same background study; and
- (2) the individual designated to receive the sensitive background study information is capable of determining, upon request of the department, whether a background study subject is providing direct

contact services in one or more of the license holder's programs or services and, if so, at which location or locations.

(b) When a background study is being initiated by a licensed program or service or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed facilities programs or services may attach to the background study form a cover letter indicating the additional names of the programs or services, addresses, and background study identification numbers.

When the commissioner receives a notice, the commissioner shall notify each program or service identified by the background study subject of the study results.

The background study notice the commissioner sends to the subsequent agencies shall satisfy those programs' or services' responsibilities for initiating a background study on that individual.