



June, 2013

Dear Provider:

**This letter contains important information regarding proposed changes to family day care and group family day care regulations:**

- Part 413 Definitions, Enforcement and Hearings;
- Part 417 Family; and
- Part 416 Group Family

I ask that you take a few minutes to read this letter, review the proposed changes and think about how those changes might affect your child care program. The Office of Children and Family Services (Office) is collecting comments on the proposed regulations from child care providers, other government agencies, parents and the public as a whole. If you have comments you would like to submit, this letter will provide you with instructions on how to do just that. All comments submitted will be reviewed.

A notice of Proposed Rulemaking will be published in the *State Register* on **June 26, 2013** at: <http://www.dos.ny.gov/info/register.htm>. In addition, the Division of Child Care Services is posting the proposed regulations to its website at: <http://www.ocfs.state.ny.us/main/childcare/default.asp>. We want to hear your comments regardless of whether they are pro or con! But remember, in order to consider your comments we must hear from you by **August 12, 2013**.

You may be asking yourself, why is the Office considering changes to the regulations? There are a variety of reasons. The Office's main objectives in proposing changes to current family-based child day care regulations is to strengthen health and safety standards, correct conflicting regulatory language discovered in existing citations in the administration of medication, add recently adopted law and to make the regulations easier to understand. In addition, modifications are proposed that will break up long citations into clearer more concise requirements. This will help make the regulation more readable, easier to locate in the text and the Office website will more accurately reflect what violation was cited.

The proposed changes come as a result of numerous planning and informational sessions with family-based child care providers, unions (CSEA and UFT), NYS Education Department, NYS

Department of Health, infant and toddler specialists, health care consultants, social services districts, Child Care Resource and Referral agencies and the Division of Child Care Services, and its Regional Office staff. We are pleased to announce to these groups that we have completed this milestone.

### Highlights of the Proposed Changes to Family –Based Regulations



Supervision is the most important element of child care services. Some would argue it is the central safety component in keeping children safe from harm. The meaning and significance of competent supervision, as a way of protecting children from injury, was studied and the Office is proposing rewording the definition and responsibilities of supervision by including the need to be focused on the children in care without distractions, be close enough to redirect a child and to be aware of each child's ongoing activity.



Administering medications is a serious responsibility, performed best by those who work with a health care consultant and receive training in administering all types of medications. Those requirements will stay in place, but there was room for improvement in this section of the regulations as well. The proposed changes reflect comments we received from the field since 2005, when the administration of medication regulations were first adopted. As you know, waivers were needed to address these concerns and allow flexibility. Now that we have the opportunity to propose revisions, these waivers can end. The proposed regulatory changes include clarity on when permission to administer medications is required and by whom, and when a child's dose of medication can be altered without requiring a new prescription and added cost. The Office is also seeking to end the requirement that caregivers and household member receive medical exams and TB testing every two years. The proposed regulations also answer important questions, such as: What is permitted when a health care consultant ends his/her role with the program? May a provider refuse to administer a medication? May a provider stock medication? When may a provider administer an auto injector or allow a child to carry an asthma inhaler? We also believe the reorganization of this section helps you, the provider, to find what you are looking for.



Obesity has reached epidemic levels in New York State and across the nation. Prevention efforts have to address children in child care settings. On this topic, the Office worked in collaboration with the Centers for Disease Control and Prevention, and the NYS Department of Health. The group researched best practice and the practicality of adding obesity prevention measures to child day care regulations. As a result of combined efforts, the Office

was able to craft balanced regulatory requirements for providers that would also allow for parent choice. The regulations will require that low-fat milk, water, or 100% juice be served, unless the parent supplies the provider with alternatives. In addition, children must have physical activity every day, and screen time activities must be limited during the child day care hours of care.



Health, safety and emergency preparedness was also a focus in drafting proposed changes. The proposed regulations address emergency evacuation plans and drills for sheltering in place, guns stored in the home, adding a smoke detector inside sleeping areas, carbon monoxide alarms, changes in technology around phone service, and safe sleep practices for infants.



Another proposed change concerns the need for an orientation session for applicants and a new training requirement for owners operating multiple sites. The Office proposes that all applicants seeking a family-based child day care license or registration complete an on-line orientation program prior to receiving an application. In addition, the Office proposes a requirement for all owners who operate multiple family-based child day care programs to receive training in administration and management of multiple sites. The orientation and training would be offered by the Office at no charge.



As already noted, one reason to update regulations is to add laws that were adopted in the past several years. You are already aware of and required to be in compliance with, those laws. To name just a few, they include:

- a change to the licensing/registration cycle from 2 to 4 years;
- maximum capacity changes;
- that there be a caregiver onsite trained in CPR and first aid;
- new crib standards, and
- a requirement for homes to have carbon monoxide detectors

You will find these changes reflected in the proposed regulations. While we remain interested in your feedback on recent changes in law, we also want you to know the Office does not have the authority to change laws. We can, however, propose changes to regulations that are not based on law.

A final category focuses on the proposed requirement for providers to be the main caregivers in family-based programs. In recent years, there has been an escalation in the number of providers who open multiple family-based programs. Providers then hire “on-site providers” to operate the programs. A number of safety issues arise from this arrangement, not the least of which are:

unapproved caregivers supervising children and un-trained providers starting in their roles as primary caregivers without health and safety training. The Office has seen increases in enforcement cases with regard to these programs. The proposed regulations seek to grandfather existing programs (allow them to continue); however, new applicants will be denied a license or registration after the implementation date of new regulations.

Your knowledge, experience and love of children have a direct bearing on the regulation process and we encourage your comments. **The public comment period is from June 26, 2013 to August 12, 2013.** There are two methods in which to comment:

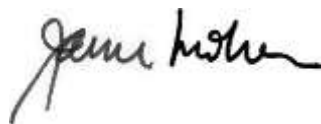
- Via the Division of Child Care Services' website at:  
<http://www.ocfs.state.ny.us/main/childcare/default.asp> .
- Or
- Write or fax a letter and send it to:

**New York State Office of Children and Family Services  
Division of Child Care Services - Child Care Public Comment  
52 Washington Street, Room 309 South  
Rensselaer, NY 12144**

**Or fax to: (518) 474-9617**

Thank you for all you do for the children of New York State.

Sincerely,



Janice M. Molnar, Ph.D.  
Deputy Commissioner  
Division of Child Care Services

**Si necesita leer esta carta en español, visite el portal de la División de Servicios de Cuidado Infantil en <http://www.ocfs.state.ny.us/main/childcare/letters.asp>. Si no tiene acceso a la Red o Internet, contacte al encargado de licencias o registros para recibir ayuda.**