

**CHEROKEE ADMINISTRATIVE REGULATIONS**  
**Adopted May 1, 2018**

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CHEROKEE ADMINISTRATIVE REGULATIONS

**TITLE 10A – HEALTH AND HUMAN SERVICES**

**CHAPTER 9 - CHILD CARE LICENSURE**

**SECTION .0100 GENERAL**

**10A CAR 09 .0101 PURPOSE**

Rules outlined herein seeks to provide high quality childcare services by establishing requirements for healthy and safe environments, facility licensing procedures, and childcare operating standards. The Division may license child care facilities on EBCI lands who meet the eligibility and licensing requirements of this subchapter.

**10A CAR 09 .0102 DEFINITIONS**

As used in this Chapter, unless the context requires otherwise, the following terms and phrases have the meanings specified:

- (1) “Activity area” means a space that is accessible to children and where related equipment and materials are kept.
- (2) “Agency” as used in this Chapter means the Eastern Band of Cherokee Indians (EBCI) Public Health and Human Services (PHHS) Division located at 43 John Crowe Hill, Cherokee, NC 28719.
- (3) “Appellant” means the person or persons who request a contested case hearing.
- (4) “Biocontaminant” means blood, bodily fluids, or excretions that may spread infectious disease.
- (5) “Child Care Center” means an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care. This does not include arrangements described in Item (18) of this Rule regarding Family Child Care Homes.
- (6) “Child Care Facility” means child care centers, family child care homes, and any other child care arrangement that provides child care, regardless of the time of day, wherever operated, and whether operated for profit.
- (7) “Child Care Provider” includes the following employees who have contact with children in a child care program:
  1. Facility directors;
  2. Administrative staff;
  3. Teachers;
  4. Teachers’ aides;
  5. Substitute providers
  6. Uncompensated providers
  7. Cooks;
  8. Maintenance personnel; and
  9. Drivers;
- (8) “Child Development Associate Credential” means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.



- (9) "Curriculum" means a curriculum that has been approved as set forth in these Rules by the EBCI as comprehensive, evidenced-based, and with a reading component.
- (10) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (11) "Division" means the Regulatory and Compliance Department within the Public Health and Human Service Division of the EBCI.
- (12) "Domains" means the developmental areas of learning described in the North Carolina Foundations for Early Learning and Development © 2013, available at [http://ncchildcare.nc.gov/providers/pv\\_foundations.asp](http://ncchildcare.nc.gov/providers/pv_foundations.asp). This instrument is incorporated by reference and does not include subsequent editions. The domains address children's emotional and social development, health and physical development, approaches to play and learning, language development, and communication and cognitive development.
- (13) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (14) "EBCI" means the Eastern Band of Cherokee Indians.
- (15) "Experience working with school-age children" means working with school-age children as a child care administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- (16) "Family Child Care Home" means a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care. Family child care home operators must reside at the location of the family child care home.
- (17) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- (18) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in this Chapter, using space identified for each group.
- (19) "Health care professional" means:
- (a) a physician licensed in North Carolina;
  - (b) a nurse practitioner approved to practice in North Carolina; or
  - (c) a licensed physician assistant.
- (20) "Household member" means a person who resides in a family home as evidenced by factors including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- (21) "If weather conditions permit" means:
1. Temperatures that fall within the guidelines on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from <http://www.idph.state.ia.us/hcci/common/pdf/weatherwatch.pdf> and is incorporated by reference and includes subsequent editions and amendments;
  2. Following the air quality standards as set out in the Air Quality Color Guide which can be found at <https://xapps.ncdenr.org/aq/ForecastCenter> or call 1-888-784-6224; and
  3. Limited time outside when there is active precipitation if conditions are safe. Caregivers may choose to go outdoors for short periods of time when there is active precipitation if children have appropriate clothing such as bathing suits for water play, rain boots and rain coats, coats, gloves, or hats if cold, or if they are under a covered area.
  4. "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child

Development and Early Education for caregivers of children ages 12 months and younger. Information regarding trainer and training availability can be found on website at [http://ncchildcare.nc.gov/providers/pv\\_itssidsproject.asp](http://ncchildcare.nc.gov/providers/pv_itssidsproject.asp).

- (22) "Infant" means any child from birth through 12 months of age.
- (23) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger. Information regarding trainer and training availability can be found on website at [http://ncchildcare.nc.gov/providers/pv\\_itssidsproject.asp](http://ncchildcare.nc.gov/providers/pv_itssidsproject.asp).
- (24) "Lead Teacher" means an individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility. A lead teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.
- (25) "Licensee" means the person or entity that is granted permission by the EBCI to operate a child care facility. The owner of a facility is the licensee.
- (26) "Lockdown drill" means an emergency safety procedure in which occupants of the facility remain in a locked indoor space and is used when emergency personnel or law enforcement determine a dangerous person is in the vicinity.
- (27) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales:
  - 1. the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010; or
  - 2. the School Age Professional Scale (SA Scale) in effect as of May 19, 2010.Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings.
- (28) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any NC Community College. Other post-secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post-secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Credential Coursework.
- (29) "Operator" means the Manager, Director, or Administrator which is the person having primary responsibility for operation of a child care facility subject to licensing.
- (30) "Owner" means any person with a five percent or greater equity interest in a child care facility; however, stockholders of corporations who own child care facilities are not subject to mandatory criminal history checks unless they are a child care provider.
- (31) "Parent" means the biological or adoptive adult legally responsible for the care and support of a child.
- (32) "Passageway" means a hall or corridor.
- (33) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.
- (34) "PHHS" means Public Health and Human Services Division
- (35) "Premises" means the entire child care building and grounds including natural areas, outbuildings, dwellings, vehicles, parking lots, driveways and other structures located on the property.
- (36) "Preschooler" means any child who does not fit the definition of a school age child.

- (37) "Reside" refers to any person that lives at a child care facility location. Factors for determining residence include:
1. use of the child care facility address as a permanent address for personal identification or mail delivery;
  2. use of the child care facility to store personal belongings such as furniture, clothing, and toiletry items; and
  3. names listed on official documents such as criminal records or property tax records.
- (38) "School-age child" means any child who is attending or who has attended a public or private grade school or kindergarten.
- (39) "Seasonal Program" means a recreational program.
- (40) "Shelter-in-Place drill" means staying in place to take shelter rather than trying to evacuate. It involves selecting a small interior room, with no or few windows, used when emergency personnel or law enforcement determine there is an environmental or weather-related threat.
- (41) "Staff" or "staff member" as used in this Chapter includes child care providers, substitute providers, and uncompensated providers. Volunteers, as defined in this Rule, are not staff members.
- (42) "Substitute provider" means any person who temporarily assumes the duties of a staff person for a time period not to exceed two consecutive months and may or may not be monetarily compensated by the facility. Any substitute provider shall be 18 years of age and literate. "Staff" or "staff members" as used in this Chapter includes child care providers, substitute providers, and uncompensated providers. Volunteers, as defined in this Rule, are not staff members.
- (43) "Teacher" means an individual who assists the Lead Teacher in planning and implementing the daily program of activities for a group of children in a child care facility. A teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.
- (44) "Teacher's aide" or "Aide" means a person who assists the lead teacher or the teacher in planning and implementing the daily program, is monetarily compensated, shall be at least 16 years old and less than 18 years old, shall be literate, and shall not be counted in staff/child ratio or have unsupervised contact with children.
- (45) "Toddler" means any child ages 13 months to 3 years of age.
- (46) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar
- (47) "Tribe" means the Eastern Band of Cherokee Indians ("EBCI").
- (48) "Uncompensated provider" means a person who works in a child care facility and is counted in staff/child ratio or has unsupervised contact with children, but who is not monetarily compensated by the facility. Any uncompensated provider shall be 18 years of age and literate.
- (49) "Volunteer" means a person who works in a child care facility and is not counted in staff/child ratio, does not have unsupervised contact with children, and is not monetarily compensated by the facility. A person who is at least 13 years of age, but less than 16 years of age, may work on a volunteer basis, as long as he or she is supervised by and works with a staff person who is at least 21 years of age and meets staff qualification requirements.

## **SECTION .0200 GENERAL REQUIREMENTS**

### **10A CAR 09 .0201 INSPECTIONS OF CHILD CARE FACILITIES**

The agency shall periodically visit and inspect all child care centers that elect to receive licensure through the Eastern Band of Cherokee Indians to insure compliance with the Cherokee Code and those rules and regulations adopted pursuant thereto.

- a. A representative of the agency shall conduct an announced visit prior to the initial issuance of the license. The prospective or current licensee shall be notified in advance about the visit. This Chapter does not apply to the investigation of centers that are operating without a Tribal license.
- b. At the beginning of each fiscal year, the Division shall prepare a written plan explaining the guidelines for making announced and unannounced visits to licensed child care centers. The plan shall be dated and signed by the Division Secretary and shall be kept in a confidential file.
- c. A representative of the Division may make unannounced visits to any licensed center whenever the Division receives a complaint alleging violation of the licensing law or the rules in this Chapter, or if a representative of the Division has reason to believe an emergency exists in the center.

**10A CAR 09 .0202 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .0203 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .0204 CHANGES REQUIRING ISSUANCE OF A NEW LICENSE FOR A CHILD CARE CENTER**

- a. When the operator of a licensed child care center changes, the new operator must apply for a new license at least 30 days prior to assuming responsibility of the center. A child care license cannot be bought, sold, or transferred by one operator to another.
- b. When a licensed child care center is to be moved from one location to another, the licensee must apply for a license for the new physical location as prescribed in Section .0300 of this Chapter. The licensee must obtain the new license prior to occupying the new location. A child care license is not transferable from one location to another.
- c. When a licensee desires to change the licensed capacity of a center, the licensee must notify the Division.
  - 1. If the licensee wishes to increase the licensed capacity by using space not currently approved for child care, the Division shall provide the licensee with appropriate forms to request approval. Once the additional space is approved, a new license shall be issued to reflect the increase in licensed capacity.
  - 2. If a licensee wishes to increase the center's licensed capacity by using space that is already approved for child care, the Division shall, upon request, issue a new license showing the increase.
  - 3. If a licensee wishes to decrease the center's licensed capacity, the Division shall, upon request, issue a new license reflecting the decrease.
- d. When a licensee decides to conform to requirements in order to remove a restriction on the age or number of children who can be served in the center, the licensee shall notify the Division. The Division shall supply forms for the licensee to use to obtain approval from the local inspectors, if necessary. When the Division is notified that the center conforms to all applicable requirements, a new license, without the restriction, shall be issued.

**10A CAR 09 .0205 ACCESS TO CHILD CARE CENTER**

The parent, guardian, or full-time custodian of a child enrolled in any child care center subject to regulation will be allowed unlimited access to the center during its operating hours for the purposes of contacting the child or evaluating the center and the care provided by the center. The parent, guardian, or custodian shall notify the on-site administrator (or another child care provider on-site) of his or her presence immediately upon entering the premises.

**SECTION .0300 PROCEDURES FOR OBTAINING A LICENSE**

**10A CAR 09 .0301 PRE-LICENSING REQUIREMENTS FOR CHILD CARE CENTER**

- a. A prospective licensee who wishes to obtain a license to operate a child care center shall first request pre-licensing consultation from the Division.
- b. Upon receiving a request, a Division representative shall schedule a visit with the person requesting consultation. Prospective licensees shall complete and submit the pre-licensing forms to the Division. Pre-licensing forms are made public by the agency.
- c. The Division shall provide regularly scheduled licensing workshops for child care centers. A schedule of these workshops may be obtained from the Division at the address given in .0101 of this Chapter. The operator of a child care center shall complete the licensing workshop provided by the Division prior to the Division issuing an initial license or the initial Notice of Compliance to the child care center.

**10A CAR 09 .0302 APPLICATION FOR A LICENSE FOR A CHILD CARE CENTER**

- a. The prospective licensee of a child care center, including assuring compliance with the licensing law and standards, shall apply for a license for a child care center using the form provided by the Division. The application for child care center license shall include the following information:
  1. owner name;
  2. center name, address, phone number, and location address;
  3. center contact information;
  4. requested age range of children in the child care center;
  5. hours of operation;
  6. type of care to be provided;
  7. type of building;
  8. type of center;
  9. proposed opening date;
  10. proposed number of children to be served;
  11. type of business operation;
  12. history of operation or licensing of child care facilities; and
  13. signature of applicant of either:
    - i. the individual who will be responsible for the operation of the center and for assuring compliance with G.S. 110, Article 7 and this Chapter; or
    - ii. an officer of an entity who will be responsible for the operation of the center and for ensuring compliance with G.S. 110, Article 7 and this Chapter

Upon receipt of the application, the Division shall assess the information provided to determine if the prospective licensee may be denied a license for one or more of the reasons set forth in 10A CAR 09 .2215.

- b. In addition to the application, an applicant shall submit the following documentation:
  1. the required criminal record check qualification letter as set forth in 10A NCAC 09 .2703;
  2. inspection reports required by G.S. 110-91(1), (4), and (5). If a center does not conform with a building, fire, or sanitation standard, the Division shall accept an inspector's determination that equivalent, alternative protection is provided;

3. measurements of all rooms to be used for child care and a sketch of the center's floor plan, including ceiling height, location of bathrooms, doors, and required exits; and
4. written information to verify compliance with G.S. 110, Article 7 and the Rules in this Chapter as follows:
  - i. emergency medical plan;
  - ii. activity plans;
  - iii. discipline policy;
  - iv. incident reports; and
  - v. incident logs.
- c. During the pre-licensing consultation the applicant, or the person responsible for the day-to-day operation of the center, shall be able to describe the plans for the daily program, including room arrangement, staffing patterns, equipment, and supplies, in sufficient detail to show that the center shall comply with applicable requirements for activities, equipment, and staff-child ratios for the capacity of the center and type of license requested.
- d. During the pre-licensing visit the applicant shall have the following available for review pursuant to 10A CAR 09 .0304(g):
  1. staff records that include:
    - i. an application for employment and date of birth;
    - ii. documentation of education, training, and experience;
    - iii. medical and health records;
    - iv. documentation of staff orientation, participation in training, and staff development activities; and
    - v. required criminal history records check documentation;
  2. children's records that include an application for enrollment, medical and immunization records, and permission to seek emergency medical care;
  3. daily attendance records;
  4. daily records of arrival and departure times at the center for each child;
  5. records of monthly fire drills documenting the date and time of each drill, the length of time taken to evacuate the building, and the signature of the person who conducted the drill as required by Cherokee Fire Prevention Code C.C. 143-10;
  6. records of monthly playground inspections documented on a checklist provided by the Division;
  7. records of administered medications;
  8. records of lockdown or shelter-in-place drills as defined in 10A CAR 09 .0102, giving the date each drill was held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill.
- e. The Division shall make one or more inspections of the center and premises to assess compliance with all applicable licensure statutes and rules and either:
  1. issue a single license for the address of the center if all applicable requirements of C.C. 110, Article 7 and this Section are met;
  2. issue a provisional license pursuant to Rule .0401 of this Chapter; or
  3. deny the application in accordance with 10A CAR 09 .2215.

**10A CAR 09 .0303 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .0304 ON-GOING REQUIREMENTS FOR A LICENSE**

- a. Each operator shall schedule a fire inspection within 12 months of the center's previous fire inspection. The operator shall notify the local fire inspector when it is time for the center's annual fire inspection. The operator shall submit the original of the completed annual fire inspection report to the Division within one week of the inspection visit on the form provided by the Division.
- b. Each center shall be inspected at least annually by an Environmental Health Specialist for compliance with applicable sanitation requirements of North Carolina adopted by the Commission for Public Health as described in 15 A NCAC 18A .2800, as codified in C.C. § 130-1.
- c. A new building inspection is not required unless the operator plans to begin using space not previously approved for child care, has made renovations to the building, has added new construction, or wants to remove any restriction related to building codes currently on the permit.
- d. When a Division representative documents noncompliance during a visit, the representative shall:
  1. Advise the operator to submit written verification that the noncompliance has been corrected;
  2. Return to the center for an unannounced visit at the later date to determine if compliance has been achieved; or
  3. Recommend issuance of a provisional license in accordance with Section .0401 of this Chapter or recommend the revocation of the permit or administrative actions in accordance with Section .2200 of this Chapter.
- e. The Division shall calculate the visit compliance score by taking the total possible points for items monitored at a visit and calculating the percentage of compliance based upon the actual points awarded. The compliance history of a center shall be calculated by averaging each visit compliance score over the previous 18 months. Points shall be awarded for compliance with items monitored as follows:
  1. supervision of children (6 points);
  2. staff/child ratio (6 points);
  3. staff qualifications and training (2 to 5 points);
  4. health and safety practices (3 to 6 points);
  5. discipline (6 points);
  6. developmentally appropriate activities (2 to 4 points);
  7. adequate space (6 points);
  8. nutrition and feeding practices (1 to 3 points);
  9. program records (1 to 3 points); and
  10. transportation (1 to 3 points), if applicable.
- f. Each center shall maintain accurate records and documents as described in Rule .0302 of this Section, and these records and documents shall be made available to the Division for review to verify compliance with provisions of this Chapter.

## **SECTION .0400 ISSUANCE OF PROVISIONAL AND TEMPORARY LICENSES**

### **10A CAR 09 .0401 PROVISIONAL LICENSES FOR FACILITIES**

- a. A provisional license may be issued for any period of time not to exceed 6 consecutive months for any of the following reasons:
  1. To allow a specific time period for correcting a violation of the building, fire, or sanitation requirements, provided that the appropriate inspector documents that the violation is not hazardous to the health or safety of the children but nevertheless necessitates a provisional classification until corrected.
  2. To allow a specific time period for the facility to comply fully with all licensing requirements other than building, fire, or sanitation, and to demonstrate that compliance

will be maintained, provided that conditions at the facility are not hazardous to the health or safety of the children or staff.

3. To allow time for the applicant or licensee to obtain a declaratory ruling pursuant to Section .2000 of this Chapter.
- b. The provisional license may be issued upon the Division's determination that the applicant or licensee is making a reasonable effort to conform to such requirements.
- c. The provisional license and the document describing the reasons for its issuance shall be posted in a prominent place in the facility that parents are able to view daily.
- d. A licensee may obtain an administrative hearing on the issuance of a provisional license in accordance with Section .2200 of this Chapter.

**10A CAR 09 .0402 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .0403 TEMPORARY LICENSES FOR CENTERS**

- a. A temporary license may be issued to the operator opening a new center or to the operator of a previously licensed center when a change in ownership or location occurs provided:
  1. The operator applied for a license, pursuant to Section .0300 of this Chapter prior to the change in status; and
  2. The center has sufficient equipment and materials to operate for the number of children enrolled.
- b. The temporary license shall be posted in a prominent place in the center that parents are able to view daily.
- c. The temporary license shall expire after six months, or upon the issuance of a license or provisional license to the operator, whichever is earlier.
- d. An operator may obtain an administrative hearing on the denial of a temporary license in accordance with Section .2200 of this Chapter.

**SECTION .0500 AGE AND DEVELOPMENTALLY APPROPRIATE ENVIRONMENTS FOR CENTERS**

**10A CAR 09 .0502 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .0505 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .0506 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .0508 ACTIVITY SCHEDULES AND PLANS**

- a. All centers shall have a current schedule and activity plan for each group of children posted for easy reference by parents and by caregivers. The schedule and activity plan may be combined in a single document.
- b. For each group of children in care, the activity plan shall include activities intended to stimulate the following developmental domains, in accordance with North Carolina Foundations for Early Learning and Development: (1) emotional and social development; (2) health and physical development; (3) approaches to play and learning; (4) language development and communication; and (5) cognitive development.
- c. When children are in care and weather conditions permit, there shall be outdoor time, either as part of a small group, a whole group, or individual activity, for no less than the following durations:



Program Operating Hours	Ages of Children	Minimum Daily Outdoor Time
All Programs	Under 2 Years	30 Minutes
Less Than 5 hours	0-12 Years	30 Minutes
5 hours or more	2-12 Years	60 Minutes

- d. When children three years of age or older are in care, the schedule shall include the following:
  - 1. blocks of time assigned to types of activities, including periods of time for active play, quiet play, or rest;
  - 2. times and activities that are developmentally appropriate for the children in care; and
  - 3. daily opportunities indoors and outdoors for:
    - i. free-choice activities; and
    - ii. teacher-directed activities.
- e. For children under two years old, interspersed among the daily events shall be individualized caregiving routines such as eating, napping, and toileting.
- f. When children under three years old are in care, the schedule shall include regular daily events such as the arrival and departure of the children, free-choice times, outside time, and teacher-directed activities.
- g. The activity plan shall.
  - 1. identify activities that allow children to choose to participate with the whole group, part of the group, or independent of the group;
  - 2. reflect that the children have four different activities daily, at least one of which is outdoors, if weather conditions permit, as listed in G.S. 110-91(12) as follows:
    - i. art and other creative play;
    - ii. children's books;
    - iii. blocks and block building;
    - iv. manipulatives; and
    - v. family living and dramatic play; and
  - 3. include a daily gross motor activity that may occur indoors or outdoors.

**10A CAR 09 .0509 LEARNING ENVIRONMENT**

The learning environment consists of the indoor and outdoor area which encourages child initiated and teacher supported activities as follows:

- 1. each center shall have developmentally appropriate equipment and materials accessible on a daily basis;
- 2. the materials and equipment indoors and outdoors shall be sufficient to provide a variety of play experiences which promote the children’s social, emotional, intellectual and physical development;
- 3. teacher-made and home-made equipment and materials may be used. Materials and equipment that are accessible to children shall not be coated or treated with, nor shall they contain, toxic materials such as creosote, pentachlorophenol, tributyl tin oxide, dislodgeable arsenic and any finishes which contain pesticides; and
- 4. developmentally appropriate equipment and materials shall be provided for a variety of outdoor activities that allow for active play and large muscle development. The center shall provide space and time for vigorous indoor activities when children cannot play outdoors.

## 10A CAR 09 .0510 ACTIVITY AREAS

- a. For each group of children in care, the center shall provide daily four of the five activity areas listed in C.C. 110B-91(14) as follows:
  1. Centers with a licensed capacity of 30 or more children shall have at least four activity areas available in the space occupied by a group of children.
  2. Centers with a licensed capacity of less than 30 children shall have at least four activity areas available. Separate groups of children may share use of the same activity areas.
  3. Centers with a licensed capacity of 3 to 12 children located in a residence shall have at least four types of activities available.
- b. In addition to the four activity areas that are available each day, each center shall have materials and equipment in sufficient quantity, as described in Subparagraph (d)(1) of this Rule, to ensure that the fifth activity area listed in C.C. 110B-91(14) is made available at least once per month.
- c. Each center shall provide materials and opportunities for each group of children at least weekly, indoors or outdoors, for the following:
  1. music and rhythm;
  2. science and nature; and
  3. sand and water play.
- d. When preschool children three years old and older are in care the following shall apply:
  1. the materials and equipment in an activity area shall be in sufficient quantity to allow at least three children to use the area regardless of whether the children choose the same or different activities; and
  2. when screen time is provided on any electronic media device with a visual display it shall be:
    - i. offered to stimulate a developmental domain in accordance with the North Carolina Foundations for Early Learning and Development as referenced in Rule .0508 of this Section;
    - ii. limited to 30 minutes per day and no more than a total of two and a half hours per week, per child; and
    - iii. documented on a cumulative log or the activity plan that shall be available for review by the Division.
- e. When children under three years old are in care the following apply:
  1. each center shall have developmentally appropriate toys and activities for each child to promote the child's emotional and social development, health and physical development, approaches to play and learning, language development, and communication and cognitive development, including:
    - i. books;
    - ii. blocks;
    - iii. dolls;
    - iv. pretend play materials;
    - v. musical toys;
    - vi. sensory toys; and
    - vii. fine motor toys;
  2. materials shall be kept in a space where related equipment and materials are kept in accordance with C.C. 110B-91(14) and shall be made available to the children on a daily basis;
  3. materials shall be offered in sufficient quantity to allow all children to use them at some time during the day and to allow for a range of choices,

4. on a daily basis caregivers shall provide developmentally appropriate activities that support health and physical development. An open area that allows freedom of movement shall be available, both indoors and outdoors, for infants and for toddlers;
  5. hands-on experiences, including both familiar and new activities, shall be provided to enable the infant or toddler to learn about himself and the world both indoors and outdoors; and
  6. each child under the age of 12 months shall be given supervised tummy time positioned on his or her stomach while awake and alert each day.
  - 7.
- f. Screen time, including television, videos, video games, and computer usage, shall be prohibited for children under three years of age.

**10A CAR 09 .0511 DAILY ROUTINES FOR CHILDREN UNDER TWO YEARS OF AGE**

- a. Children under two years of age shall require individualized daily routines based on their specific developmental needs. The center shall provide time and space for sleeping, eating, toileting, diaper changing, and playing according to each child's individual needs.
- b. The caregivers shall interact in a positive manner with each child every day, as follows:
  - a. caregivers shall respond at the earliest opportunity to an infant or toddler's physical and emotional needs, especially when indicated by crying, through actions such as feeding, diapering, holding, positive touching, smiling, talking, and eye contact;
  - b. the caregiver shall recognize the special difficulties of infant and toddler separations and assist families, infants, and toddlers to ease the transition from home to center such as a phased-in orientation process to allow infants and toddlers to experience limited amounts of time at the center before becoming integrated;
  - c. a caregiver or team of caregivers shall be assigned to each infant or toddler as the primary caregiver(s) who is responsible for care the majority of the time; and
  - d. the caregiver shall make provision for constructive guidance and setting limits that the child can understand and that foster the infant's or toddler's ability to be self-disciplined, as appropriate to the child's age and development.

**10A CAR 09 .0512 RESERVED FOR FUTURE CODIFICATION**

**SECTION .0600 SAFETY REQUIREMENTS FOR CHILD CARE CENTERS**

**10A CAR 09 .0601 SAFE ENVIRONMENT**

- a. A safe indoor and outdoor environment shall be provided for the children in care in accordance with rules in this Section.
- b. All equipment and furnishings shall be in good repair all commercially manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer. For equipment and furnishings purchased after September 1, 2017, the manufacturer's instructions shall be kept on file or electronically accessible, if available.
- c. Equipment and furnishings shall be sturdy, stable, and free of hazards that may injure children including sharp edges, lead based paint, loose nails, and splinters, protrusions (excluding nuts and bolts on sides of fences), and pinch and crush points.
- d. All broken equipment or furnishings referenced in Paragraph (c) of this Rule shall be removed from the premises immediately or made inaccessible to the children.

- e. Each child care center shall provide equipment and furnishings that are child-size or that can be adapted use by children. Chairs and tables shall be of appropriate height for the children who will be using them.

#### **10A CAR 09 .0603 RESERVED FOR FUTURE CODIFICATION**

#### **10A CAR 09 .0604 SAFETY REQUIREMENTS FOR CHILD CARE CENTERS**

- a. In child care centers, potentially hazardous items, including power tools, nails, chemicals, propane stoves, lawn mowers, and gasoline or kerosene, whether or not intended for use by children, shall be stored in locked areas, removed from the premises, or otherwise inaccessible to children.
- b. Firearms and ammunition are prohibited in a licensed child care facility unless carried by a law enforcement officer.
- c. When not in use, electrical outlets and power strips located in space used by children shall have safety outlets or be covered with safety plugs unless located behind furniture or equipment that cannot be moved by a child.
- d. Electric fans shall be mounted out of the reach of children or shall be fitted with a mesh guard to prevent access by children.
- e. All electrical appliances shall be used only in accordance with the manufacturer's instructions. For appliances with heating elements, such as bottle warmers, slow cookers, irons, coffee pots, or curling irons, neither the appliance nor any cord shall be accessible to any children.
- f. Electrical cords shall not be accessible to any children. Extension cords, except as approved by the local fire inspector, shall not be used. Frayed or cracked electrical cords shall be replaced.
- g. All materials used for starting fires, such as matches, lighters, and accelerants shall be kept in locked storage.
- h. Children shall be in a smoke free and tobacco free environment. Smoking and the use of any product containing, made or derived from tobacco, including e-cigarettes, cigars, little cigars, smokeless tobacco, and hookah, shall not be permitted on the premises of the child care center, in vehicles used to transport children, or during any off-premise activities. All smoking materials shall be kept in locked storage. For child care centers in an occupied residence that are licensed for 3 to 12 children when any preschool-age children are in care, or for 3 to 15 children when only school-age children are in care, the premises shall be smoke free and tobacco free during operating hours.
- i. Signage regarding the smoking and tobacco restriction shall be posted at each entrance to the center and in vehicles used to transport children.
- j. The operator shall notify the parent of each child enrolled in the center, in writing, of the smoking and tobacco restriction.
- k. Fuel burning heaters, fireplaces, and floor furnaces, if applicable, shall be fitted with a protective screen attached to support to prevent access by children and to prevent objects from being thrown into them.
- l. Toxic plants shall be inaccessible to children. A list of toxic plants may be found at [http://ncchildcare.nc.gov/pdf\\_forms/form16b\\_bb.pdf](http://ncchildcare.nc.gov/pdf_forms/form16b_bb.pdf).
- m. Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.
- n. Gas tanks and gas or charcoal grills shall be inaccessible to children or shall be in a protective enclosure.
- o. Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.
- p. Once a day, prior to initial use, the indoor and outdoor premises shall be checked for debris, vandalism, and broken equipment. Debris shall be removed and disposed of.

- q. Plastic bags, toys, and toy parts small enough to be swallowed, and materials that can be torn apart, such as foam rubber and Styrofoam shall not be accessible to children under three years of age. However, Styrofoam plates and larger pieces of foam rubber may be used for supervised art activities and Styrofoam plates may be used for food service. Jump ropes and rubber bands shall not be accessible to children under five years of age without adult supervision. Balloons shall be prohibited for children of all ages.
- r. When non-ambulatory children are in care, a crib or other device shall be available for evacuation in case of fire or other emergency. The crib or other device shall be fitted with wheels in order to be moveable, have a reinforced bottom, and shall be able to fit through the designated fire exit. For centers that do not meet NC Building Code, per EBCI Code Chapter 143 Article 1 Section 143-6, for institutional occupancy, and have an exit more than eight inches above grade, the center shall develop a written plan to ensure a safe evacuation of the crib or other device. The NC Building Code is hereby incorporated by reference, inclusive of subsequent amendments. The current Code can be found online at [http://www.ncdoi.com/OSFM/Engineering\\_and\\_Codes/Default.aspx?field1=Codes\\_Current\\_and\\_Past&user=State\\_Building\\_Codes](http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_Current_and_Past&user=State_Building_Codes). The operator shall physically demonstrate this written plan to the Division for review and approval. During the required fire, lockdown, or shelter-in-place drills, an evacuation crib or other device shall be used in the manner described in the Emergency Preparedness and Response Plan as defined in 10A CAR 09 .0607.
- s. A First Aid kit shall be available on site and accessible to staff. An Automated External Defibrillator is recommended to be available to staff. Each staff member shall be aware of the location of the First Aid kit and Automated External Defibrillator.
- t. Fire drills shall be practiced monthly and records shall be maintained as required by 10A CAR 09 .0302(d)(5).
- u. A “shelter-in-place” or “lockdown drill” as defined in 10A CAR 09 .0102 shall be conducted at least every three months and records shall be maintained as required by 10A CAR 09 .0302. (d)(8)
- v. In child care centers, biocontaminants shall be:
  - a. stored in locked areas;
  - b. removed from the premises;
  - c. inaccessible to children; or
  - d. shall be disposed of in a covered, plastic lined receptacle.

**10A CAR 09 .0605 OUTDOOR LEARNING ENVIRONMENT IN CHILD CARE CENTERS**

- a. Outdoor play equipment shall be age and developmentally appropriate.
- b. For outdoor play structures purchased or installed on or after September 1, 2017 the provider shall maintain manufacturer's instructions on file electronically or in paper format.
- c. Separate play areas or time schedules shall be provided for children under two years of age unless fewer than 15 children of any age are in care.
- d. If a center shares playground space with another center that serves children, a separate play area or time schedule shall be provided for each center.
- e. Children shall not be allowed to play on outdoor equipment that is too hot to touch.
- f. Children shall not be allowed to be bare-footed while outdoors if equipment or surfacing is too hot to touch.
- g. Any openings in equipment, steps, decks, and handrails shall be smaller than 3 ½ inches or greater than 9 inches to prevent entrapment.
- h. All upright angles shall be greater than 55 degrees to prevent entrapment and entanglement.

- i. The outdoor play area shall be protected by a fence or other protection. The height shall be a minimum of four feet and the top of the fence shall be free of protrusions. The requirement disallowing protrusions on tops of fences shall not apply to fences six feet high or above. The fencing shall exclude fixed bodies of water such as ditches, quarries, canals, excavations, and fish ponds. Gates to the fenced outdoor play area shall remain securely closed while children occupy the area.
- j. All stationary outdoor equipment more than 18 inches high shall be installed over protective surfacing. Footings which anchor equipment shall not be exposed. Protective surfacing shall be either:
  - a. loose surfacing material, including wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, and pea gravel, except that pea gravel shall not be used if the area will be used by children under three years of age. Loose surfacing material shall not be installed over concrete; or
  - b. other materials that have been certified by the manufacturer to be shock-absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard F 1292, may be used if installed, maintained, and replaced according to the manufacturer's instructions. This standard is incorporated by reference and does include subsequent editions. This standard may be found online at <https://www.astm.org/Standards/F1292.htm> for a cost of sixty-five dollars (\$65.00).
- k. The depth of the loose surfacing material shall be based on the critical height of the equipment, which is defined as the maximum height that a child may climb, sit, or stand, as follows:
  - a. equipment with a critical height of 5 feet or less shall have 6 inches of loose surface materials;
  - b. equipment with a critical height of more than 5 feet, but less than 7 feet, shall have 6 inches of loose surfacing material, except for sand;
  - c. equipment with a critical height of 7 feet to 10 feet shall have 9 inches of any of the loose surfacing material, except for sand; and
  - d. when sand is used as a surfacing material for equipment with a critical height of more than 5 feet, 12 inches shall be required.
- l. Protective surfacing shall cover the area under and around the equipment where the child is likely to fall, and it is called the fall zone. The area for fall zones is as follows:
  - 1. For stationary outdoor equipment used by children under two years of age, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of three feet, except that protective surfacing is only required at all points of entrance and exit for any structure that has a protective barrier.
  - 2. For stationary outdoor equipment used by children two years of age or older, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of six feet.
- m. Exceptions to paragraph (i) of this Rule are as follows:
  - 1. Fall zones may overlap around spring rockers, and around equipment that is more than 18 but less than 30 inches in height. If there are two adjacent structures and one is more than 18 but less than 30 inches in height, the protective surfacing shall extend a minimum of nine feet between the two structures.
  - 2. Swings shall have protective surfacing that extends two times the length of the pivot point to the surface below. The surfacing shall be to the front and rear of the ring.
  - 3. Tot swings shall have protective surfacing that extends two times the length of the pivot point to the bottom of the swing seat. The surfacing shall be to the front and rear of the swing. Tot swings are defined as swings with enclosed seats.

4. Tire swings shall have protective surfacing that extends a distance of six feet plus the measurement from the pivot point to the swing seat and six feet to the side of the support structure.
- n. Swing seats shall be made of plastic or soft or flexible material.
  - o. Elevated platforms shall have a guardrail or protective barrier, depending upon the height of the platform and the age of children that will have access to the piece of equipment. Guardrails shall prevent inadvertent or unintentional falls off the platform. The critical height for a platform with a guardrail is the top of the guardrail. Protective barriers shall prevent children from climbing over or through the barrier. The critical height for a platform with a protective barrier is the platform surface. All sides of platforms shall be protected except for the area which allows entry or exit. Measurements for the guardrails and protective barriers are stated below:
    1. Equipment used exclusively by children under two years of age:
      - i. Protective Barriers- an elevated surface that is more than 18 inches above the underlying surface shall have a protective barrier or protective surfacing. The minimum height of the top surface of the protective barrier shall be 24 inches.
      - ii. Critical Height- the maximum critical height of a platform or elevated play surface shall be no greater than 32 inches.
    2. Equipment used exclusively by children two years of age up to school age:
      - i. Guardrails- an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 29 inches and the lower edge shall be no more than 23 inches above the platform.
      - ii. Protective Barriers – an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barriers shall be 29 inches.
    3. Equipment used by children two years of age and older:
      - i. Guardrails- an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 38 inches and the lower edge shall be no more than 23 inches above the platform.
      - ii. Protective Barriers- an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 38 inches.
    4. Equipment used exclusively by school-age children:
      - i. Guardrails- an elevated surface that is more than 30 inches and no more than 48 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 38 inches and the lower edge shall be no more than 26 inches above the platform.
      - ii. Protective Barriers- an elevated surface that is more than 48 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 38 inches.
  - p. Composite structures that were installed between January 1, 1989 and January 1, 1996 according to manufacturer's instructions that met existing safety standards for playground equipment at the time of installation and received approval from the Division, may continue to be used.
  - q. Following completion of playground safety training as required by Rule .1102(e) of this Chapter, a monthly playground inspection shall be conducted by a trained individual. A trained administrator or staff person shall make a record of each inspection using a playground inspection checklist provided by the Division. The checklist shall be signed by the person who conducts the

inspection and shall be maintained for 12 months in the center's files for review by a representative of the Division. The playground inspection includes a checklist of items related to safety, surfacing, and equipment quality.

- r. Trampolines shall be prohibited, except for supervised use of a mini fitness trampoline for single person use.
- s. Inflatables shall be prohibited except when used during a special event such as a celebration, festival, party, or family engagement event. A staff member shall be able to hear and see all children using inflatables at all times. For purposes of this Rule, an inflatable shall mean an air-filled structure designed to allow users to bounce, slide, or climb in. The inflatable device uses air pressure from one or more blowers to maintain its shape. Examples include bounce houses, moon walkers, giant slides, and bouncers.

#### **10A CAR 09 .0606 SAFE SLEEP PRACTICES**

- a. Each center licensed to care for infants aged 12 months or younger shall develop and adopt a written safe sleep policy that:
  - 1. Specified that caregivers shall place infants aged 12 months or younger on their backs for sleeping, unless:
    - i. For an infant aged six months or less, the center receives a written waiver of this requirements from a health care professional, or
    - ii. For an infant older than six months, the center receives a written waiver of this requirements from a healthcare professional, or a parent, or a legal guardian;
  - 2. Specifies no pillows, wedges or other positioners, pillow-like toys, blankets, toys, bumper pads, quilts, sheepskins, loose bedding, towels and washcloths, or other objects may be placed with a sleeping infant aged 12 months or younger;
  - 3. specifies that children shall not be swaddled;
  - 4. Specifies that nothing shall be placed over the head or face of an infant aged 12 months or younger when the infant is laid down to sleep;
  - 5. Specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75degrees F;
  - 6. specifies that caregivers shall visually check, in person, sleeping infants aged 12 months or younger at least every 15 minutes;
  - 7. Specifies how caregivers shall document compliance with visually checking on sleeping infants aged 12 months or younger with such documents to be maintained for a minimum of one month; and
  - 8. specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;
  - 9. specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, mat, or cot;
  - 10. specifies that infants aged 12 months or younger are prohibited from sleeping in sitting devices, including car safety seats, strollers, swings, and infant carriers. Infants that fall asleep in sitting devices shall be moved to a crib, bassinet, mat, or cot; and
  - 11. Specifies any other steps the center shall take to provide a safe sleep environment for infants aged 12 months or younger.
- b. The center shall post a copy of its safe sleep policy about infant safe sleep practices in a prominent place in the infant room.



c. A copy of the center's safe sleep policy shall be given and explained to the parents of an infant aged 12 months or younger on or before the first day the infant attends the center. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain:

1. The infant's name;
2. The date the infant first attended the center;
3. The date the center's safe sleep policy was given and explained to the parent; and
4. The date the parents signed the acknowledgement.

The center shall retain the acknowledgement in the child's record as long as the child is enrolled at the center.

d. If a center amends its safe sleep policy, it shall give written notice of the amendment to the parents of all enrolled infants aged 12 months or younger at least 14 days before the amended policy is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The center shall retain the acknowledgement in the child's record as long as the child is enrolled at the center.

e. A caregiver shall place a child age 12 months or younger on the child's back for sleeping, unless for a child age 6 months or younger, the operator obtains a written waiver from a health care professional; or for a child older than 6 months, the operator obtains a written waiver from a health care professional or parent. Waivers shall include the following:

- a. the infant's name and birth date;
- b. the signature and date of the infant's health care professional or parent;
- c. (3) if a wedge is needed specify why it is needed and how it is to be used; and
- d. (4) the infant's authorized sleep positions.

The center shall retain the waiver in the child's record as long as the child is enrolled at the center.

f. For each infant with a waiver on file at the center as specified in Paragraph (e) of this Rule, a notice shall be posted for quick reference near the infant's crib, bassinet, play pen, cot or mat that shall include:

1. The infant's name;
2. The infant's authorized sleep position; and
3. The location of the signed waiver.

No confidential medical information, including an infant's medical diagnosis, shall be shown on the notice.

g. Documents that verify staff member's compliance with visual checks on infants shall be maintained for a minimum of one month.

h. A bed, crib, or cot equipped with a firm waterproof mattress at least four inches thick and a fitted sheet shall be provided for each child who remains in the center after midnight. The top of bunk beds shall be used by school-age children only.

#### **10A CAR 09 .0607 EMERGENCY PREPAREDNESS AND RESPONSE IN CHILD CARE CENTERS**

a. For the purpose of this Rule, the Emergency Preparedness and Response in Child Care is a session training approved by the Division on creating an Emergency Preparedness and Response Plan and practicing, responding to and recovering from the emergencies in child care facilities.

b. Existing child care centers shall have one person on staff who has completed the Emergency Preparedness and Response in Child Care training. New centers shall have one person on staff who has completed the Emergency Preparedness and Response in Child Care training within one year of the effective date of the initial license. When the trained staff member leaves employment, the center shall ensure that another staff member completes the required training within four months

of the vacancy. Documentation of completion of the training shall be maintained in the individual's personnel file or in a file designated for emergency preparedness and response plan documents.

- c. Upon completion of the Emergency Preparedness and Response in Child Care training, the trained staff shall develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care facility will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disasters, or a dangerous person or persons in the vicinity, to ensure the safety and protection of the children and staff. This Plan must be on a template provided by the Division available at <https://rmp.nc.gov/portal/#>. This plan must be completed within four months of completion of the training.
- d. The Emergency Preparedness and Response Plan shall include:
  1. Written procedures for accounting for all in attendance including:
    - i. The location of the children, staff, volunteer, and visitor attendance lists; and
    - ii. The name of the persons responsible for bringing the lists in the event of an emergency.
  2. a description for how and when children shall be transported;
  3. methods for communicating with parents and emergency personnel or law enforcement;
  4. a description of how children's nutritional and health needs will be met;
  5. the relocation and reunification process;
  6. emergency telephone numbers;
  7. evacuation diagrams showing how the staff, children, and any other individuals who may be present will evacuate during an emergency;
  8. the date of the last revision of the plan;
  9. specific considerations for non-mobile children and children with special needs; and
  10. The location of a Ready to Go File. A Ready to Go File means a collection of information on children, staff and the facility to utilize, if an evacuation occurs. The file shall include, but is not limited to, a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick-up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and staff, staff contact information, Incident Report forms, an area map, and emergency telephone number.
- e. The trained staff shall review the Emergency Preparedness and Response Plan annually, or when information in the plan changes, to ensure all information is current.
- f. All staff shall review the center's Emergency Preparedness and Response Plan during orientation and on an annual basis with the trained staff. Documentation of the review shall be maintained at the center in the individual's personnel file or in a file designated for emergency preparedness and response plan documents.
- g. All substitutes and volunteers counted in ratio who are present shall be informed of the child care center's Emergency Preparedness and Response Plan and its location. Documentation of this notice shall be maintained in the individual personnel files.

**10A CAR 09 .0608 PREVENTION OF SHAKEN BABY SYNDROME AND ABUSIVE HEAD TRAUMA**

- a. Each child care center licensed to care for children up to five years of age shall develop and adopt policies to prevent shaken baby syndrome and abusive head trauma prior to licensure. The policy shall include the following:
  1. How to recognize, respond to, and report the signs and symptoms of shaken baby syndrome and abusive head trauma. Signs and symptoms include: irritability, difficulty staying awake, difficulty breathing, inability to lift the head, seizures, lack of appetite, vomiting, and bruises;
  2. Strategies to assist staff members in coping with a crying, fussing, or distraught child;
  3. Strategies to assist staff members understand how to care for infants;
  4. Strategies to ensure staff members understand the brain development of children up to five years of age;
  5. A list of prohibited behaviors shall include, but not be limited to, shaking a child, tossing a child into the air or into a crib, chair, or car seat, and pushing a child into walls, doors, and furniture; and
  6. Resources to assist staff members and families in preventing shaken baby syndrome and abusive head trauma.
- b. Within 30 days of adopting the policy, the child care center shall review the policy with parents of currently enrolled children up to five years of age. A copy of the policy shall be given and explained to the parents of newly enrolled children up to five years of age on or before the first day the child receives care at the center. The parents shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain the following:
  1. The child's name;
  2. The date the child first attended the center;
  3. The date the operator's policy was given and explained to the parent; The parent's name;
  4. The parent's signature; and
  5. The date the parent signed the acknowledgment.
  6. The child care center shall obtain the parent's signature and the acknowledgement shall be kept in the child's file.
- c. If a child care center changes the policy at any time, the child care center shall give written notice of the change to the child's parent 14 days prior to the implementation of the new policy and the parent shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. The center shall obtain the parents signature and this statement shall be kept in the child's file.
- d. Within 30 days of adopting the policy, the child care center shall review the policy with existing staff members who provide care for children up to five years of age. Each child care center shall review the policy with new staff members prior to the individual providing care to the children. The acknowledgement of this review shall contain:
  1. The individual's name;
  2. The date the center's policy was given and explained to the individual;
  3. The individual's signature; and
  4. The date the individual signed the acknowledgment.
  5. The child care center shall retain the acknowledgement in the staff member's file.
- e. If a child care center changes the policy at any time, the child care center shall review the revised policy with staff members 14 days prior to the implementation of the new policy. The individual shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the staff member's file.

## **SECTION .0700 STAFF QUALIFICATIONS**

**10A CAR 09 .0701 HEALTH STANDARDS FOR CHILD CARE PROVIDERS, SUBSTITUTE PROVIDERS, VOLUNTEERS, AND UNCOMPENSATED PROVIDERS**

- a. Health and emergency information shall be obtained for staff members as specified in the chart below:

Required for:	Items Requirements:	Due Date:
Child care providers and uncompensated providers who are not substitute providers or volunteers as defined in 10A CAR 09 .0102, including the director.	Medical Report A statement signed by a health care professional that indicates that the person is emotionally and physically fit to care for children.	Within 60 days of employment. When submitted, the medical statement shall not be older than 12 months.
All staff, including the director and individuals who volunteer more than once per week.	Tuberculin (TB) Test or Screening The results indicating the individual is free of active tuberculosis shall be obtained within the 12 months prior to the date of employment.	On or before first day of work.
Child care providers, including the director, uncompensated providers, substitute providers, and volunteers.	Emergency Information Form, including the name, address, and telephone number of the person to be contacted in case of an emergency, the responsible party's choice of health care professional, any chronic illness, any medication taken for that illness, and any other information that has a direct bearing on ensuring safe medical treatment for the individual.	On or before the first day of work. The emergency information shall be updated as changes occur and at least annually.
All staff, including the director	Health Questionnaire A statement signed by the staff member that indicates that the person is emotionally and physically fit to care for children.	Annually following the initial medical statement
Substitute providers and volunteers.	Health Questionnaire A statement signed by the substitute provider or volunteer that indicates that the person is emotionally and physically fit to care for children.	On or before first day of work and annually thereafter.

- b. The Division, or the director of the child care center, may request an evaluation of a staff member's emotional and physical fitness to care for children when there is reason to believe that there has been deterioration in the staff member's emotional or physical fitness to care for children. This

request may be based upon factors such as observations by the director or center staff, reports of concern from family, reports from law enforcement or reports from medical personnel.

- c. Staff medical statements, proof of a tuberculosis test or screening, and complete health questionnaires shall be included in the staff member's individual personnel file in the center.

#### **10A CAR 09 .0702 RESERVED FOR FUTURE USE**

#### **10A CAR 09 .0703 GENERAL STATUTORY REQUIREMENTS**

- a. Child care providers, substitute providers, and uncompensated providers counted toward meeting the staff/child ratio requirements are set forth in Rule .0713 No one under 18 years of age shall have full responsibility for or be left in charge of a group of children.
- b. On or before the first day of work, the operator shall verify the age of substitute providers and volunteers and documentation of the substitute provider or volunteer's date of birth shall be maintained in the individual's personnel file in the center. Age shall be verified with any official document that provides a date of birth, such as a driver's license or birth certificate.
- c. Within six months of an individual assuming lead teacher or child care administrator duties, each center shall maintain the following information in the individual's staff record:
  - 1. a copy of the credential certificate;
  - 2. a copy of notification from the Division that the individual meets the equivalency or that the individual does not meet the equivalency and must enroll in coursework;
  - 3. a dated copy of the request submitted by the individual to the Division for the assessment of equivalency status or the opportunity to test out of the credential coursework; or
  - 4. documentation of enrollment in credential coursework.
- d. If the individual does not yet meet the staff qualifications when assuming lead teacher or administrative duties, the individual shall submit to the Division documentation of completion of the coursework, enrollment in coursework, or credential to be considered for equivalency within six months of assuming the duties:
- e. For child care centers in an occupied residence that are licensed for 3 to 12 children when any preschool-age children are in care, or for 3 to 15 children when only school-age children are in care, when an individual has responsibility both for administering the child care program and for planning and implementing the daily activities of a group of children, the requirements for lead teacher in Rule .0710 of this Section shall apply to this individual. If the program has more than one group of children, the requirement regarding lead teacher shall apply to each group of children.
- f. Equivalency standards in this Section may be found online at <http://ncchildcare.nc.gov/providers/credent.asp>.

#### **10A CAR 09 .0704 PRESERVICE REQUIREMENTS FOR CHILD CARE ADMINISTRATORS**

- a. A child care administrator who has not met the staff qualifications required by C.C. 110-91(9) shall meet the requirements in this Rule prior to exercising any child caring responsibilities.
  - 1. Have either a high school diploma or its equivalent; and
  - 2. Have two years of full-time verifiable work experience in a child care center or early childhood work experience; or an undergraduate, graduate, or associate degree, with at least 12 semester hours in child development, child psychology, early childhood education or directly related field; or a Child Development Associate Credential; or completion of a community or technical college curriculum program in the areas of child care or early childhood; or one year of full-time verifiable child care or early childhood work experience and a North Carolina Early Childhood Credential; and

3. Have verification of having successfully completed, or be currently enrolled in, two semester credit hours, or 32 clock hours, of training in the area of early childhood program administration; or, have one-year experience performing administrative responsibilities.
- b. An administrator who does not meet the requirements of this Rule may share the requirements with another individual, provided that prior to exercising child caring responsibilities, the individual who is responsible for planning and implementing the daily program at the center to comply with Sections .0500 and .0600 of this Chapter shall be a full-time staff person on-site who meetings this Rule, and the other individual shall meet Subparagraph 1c of this Rule and be either on-site or off-site.
- c. Any person who is at least 21 years old and literate who was employed as an on-site administrator in a child care program on or before September 1, 1986, shall be exempt from the provisions of Paragraphs 1 and 2 of this Rule, as long as the person is employed by the same operator.

**10A CAR 09 .0705 RESERVED FOR FUTURE USE**

**10A CAR 09 .0706 RESERVED FOR FUTURE USE**

**10A CAR 09 .0707 RESERVED FOR FUTURE USE**

**10A CAR 09 .0708 RESERVED FOR FUTURE USE**

**10A CAR 09 .0710 PRESERVICE REQUIREMENTS FOR LEAD TEACHERS AND TEACHERS**

- a. If an individual already has a North Carolina Early Childhood Credential or its equivalent, none of the requirements of this Rule shall apply. If an individual does not have a North Carolina Early Childhood Credential or its equivalent, the requirements of this Rule shall be met.
- b. A teacher shall be at least 18 years of age, have a high school diploma or its equivalent, and have a least one of the following:
  1. One year of verifiable child care experience working in a child care center or two years of verifiable experience as a licensed family child care home operator; or
  2. Successful completion of a two-year high school program of Early Childhood Education in Family and Consumer Sciences Education; or
  3. Twenty hours of training in child development, which could include the North Carolina Early Childhood Credential coursework, within the first six months of employment in addition to the number of annual in-service training hours required in Rule .1103 of this Section.
- c. Individuals employed prior to July 1, 1998 are exempted from the requirements of this Rule, as long as they remain employed by the same operator.

**10A CAR 09 .0711 PRESERVICE REQUIREMENTS FOR OTHER STAFF**

- a. Any person whose job responsibility includes driving a vehicle to transport children, including any substitute driver, shall meet the requirements in Rule .1003 of this Chapter.
- b. Non-care giving staff or any person providing support to the operation of the program shall be at least 16 years of age; and meet the requirements of the local health department for food handlers when duties are related to food preparation or food service.

**10A CAR 09 .0712 RESERVED FOR FUTURE USE**

**10A CAR 09 .0713 STAFF/CHILD RATIOS FOR CENTERS**

- a. The staff/child ratios and group sizes for single-age groups of children in centers shall be as follows:

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/5	10
12 to 24 Months	1/6	12
2 to 3 Years	1/10	20
3 to 4 Years	1/15	25
4 to 5 Years	1/20	25
5 Years and Older	1/25	25

1. in any multi-age group situation, the staff/child ratio for the youngest child in the group shall be maintained for the entire group;
  2. children younger than two years old may be cared for in groups with older children for the first and last operating hour of the day provided the staff/child ratio for the youngest child in the group is maintained;
  3. a child two years of age and older may be placed with children under one year of age when a physician certifies that the developmental age of the child makes this placement appropriate;
  4. when determined to be developmentally appropriate by the operator and parent, a child age two or older may be placed on age level above his or her chronological age without affecting the staff/child ratio for that group. This provision shall be limited to one child per group;
  5. Except as provided in Paragraphs 2 and 3 of this Rule, children under one year of age shall be kept separate from children two years of age and over;
  6. when only one caregiver is required to meet the staff/child ratio and no children under two years of age are in care, that caregiver may concurrently perform food preparation or other duties that are not direct child care responsibilities as long as supervision of the children as specified in .0714 of this rule is maintained;
  7. except as provided in Subparagraph (6) of this Paragraph, staff members and child care administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not concurrently perform food preparation or other duties that are not direct child care responsibilities; and
  8. when only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:
    - i. the center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief; or
    - ii. there shall be a second adult on the premises who is available to provide emergency relief
- b. The staff/child ratios for a center located in a residence with a licensed capacity of 3 to 12 children when any preschool-age child is enrolled, or with a licensed capacity of 3 to 15 children when only school-age children are enrolled, are as follows:

Age of Children	Ratio Staff/Children
0 to 12 Months	1/5
12 to 24 Months	1/6
2 to 13 Years	1/10
3 to 13 Years	1/15
All School-age	1/15

- c. The staff/child ratio applicable to a classroom for a center located in a residence as described in Paragraph (b) of this Rule shall be posted in that classroom in an area that parents are able to view at all times.
- d. When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described in Paragraph (b) of this Rule and children under two years of age are in care, that person shall not concurrently perform food preparation or other duties that are not direct child care responsibilities.
- e. When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described in Paragraph (b) of this Rule the operator shall select one of the following options for emergency relief:
  1. the center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or
  2. there shall be a second adult on the premises who is available to provide emergency relief.

**10A CAR 09 .0714 OTHER STAFFING REQUIREMENTS**

- a. Each child care center shall have an administrator who shall be responsible for monitoring the program and overseeing administrative duties of the center. This requirement may be met by having one or more persons on site who meet the requirements for an administrator according to the licensed capacity of the center.

Licensed Capacity	Weekly On-Site Hours
Less than 30 children	20
30-79 children	25
80-199 children	30
200 or more	40

The child care administrator’s required weekly hours may include those hours that he or she is off-site due to administrative duties, illness or vacation

- b. One person who meets the requirements for a child care administrator or lead teacher as set forth in C.C. 110B-91(9) shall be on site during the center's operating hours, except that a person who is at least 18 years old with at least a high school diploma or its equivalent and who has a minimum of one year's experience working with children in a child care center may be on duty at the beginning or end of the operating day provided that:
  1. No more than 10 children are present.
  2. The staff person has worked in that center for at least three months.
  3. The staff person has completed the orientation training required in Rule .1101 of this Section.
- c. One person who meets the requirements for a lead teacher shall be responsible for each group of children except as provided in Paragraph (b) of this Rule. This requirement may be met by having one or more persons who meet the requirements for a lead teacher responsible for the same group of children. Each lead teacher shall be responsible for only one group of children at a time. Each group of children shall have a lead teacher in attendance for at least two-thirds of the total daily hours of operation, based on a normal working schedule, and may include times when the lead teacher may not be in attendance due to circumstances such as illness or vacation.
- d. No aide shall have responsibility for a group of children except as provided in Paragraph (b) of this Rule.
- e. Nothing contained in this Chapter shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual with a disability," as defined



by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.

## **SECTION .0800 HEALTH STANDARDS FOR CHILDREN**

### **10A CAR 09 .0801 APPLICATION FOR ENROLLMENT**

- a. Each child in care shall have an individual application for enrollment completed and signed by the child's parent, as defined in 10A CAR 09 .0101. The completed, signed application shall be on file in the center on the first day the child attends and shall include the following information:
  1. Emergency medical information as set forth in Rule .0802 of this Section;
  2. The child's full name and name the child is to be called;
  3. The child's date of birth;
  4. Any allergies and the symptoms and type of response required for allergic reactions;
  5. Any health care needs or concerns, symptoms of and the type of response required for these health care needs or concerns;
  6. Particular fears or unique behavior characteristics that the child has; and
  7. The names of individuals to whom the center may release the child, as authorized by the person who signs the application.
- b. For any child with health care needs such as allergies, asthma, or other chronic conditions that require specialized health services, a medical action plan shall be attached to the application. The medical action plan shall be completed by the child's parent or a health care professional and including the following:
  1. A list of the child's diagnosis or diagnoses including dietary, environmental, and activity considerations that are applicable;
  2. Contact information for the healthcare professional(s);
  3. Medications to be administered on a scheduled basis; and
  4. Medications to be administered on an emergency basis with symptoms, and instructions.
- c. The medical action plan shall be updated on an annual basis. Sample medical action plans are available at the Division. Center administrators and staff shall release a child only to an individual listed on the application.
- d. The information contained in Subparagraphs 1a through 1g of this Rule, shall be accessible to the caregiving staff during the time the child is in care.
- e. Center administrators and staff shall use the information provided on the application to ensure that each individual child's needs are met during the time the child is in care.

### **10A CAR 09 .0802 EMERGENCY MEDICAL CARE**

- a. Each child care center shall have a written plan that sets forth in the steps to follow in the event of a child medical emergency. The plan shall be reviewed with all staff annually and whenever the plan is revised. This plan shall give the procedures to be followed to ensure that any child who becomes ill or is injured and requires medical attention while in care at the center receives appropriate medical attention. The following information shall be included in the center's emergency medical care plan:
  1. The name of the person and at least one alternate, responsible for carrying out that plan of action, ensuring that appropriate medical care is given, and determining which of the following is needed:
    - i. first aid given at the center for an injury or illness needing only minimal attention; and
    - ii. calling 911 in accordance with CPR or First Aid training recommendations.
  2. The name of the person and one alternate, at the center responsible for:

3. ensuring that the signed authorization described in Paragraph (d) of this Rule is taken with the ill or injured child to the medical facility;
  4. accompanying the ill or injured child to the medical facility;
  5. notifying a child's parents or emergency contact person about the illness or injury and where the child has been taken for treatment;
  6. obtaining substitute staff, if needed, to maintain required staff/child ratio and adequate supervision of children who remain in the center; and
  7. A statement giving the location of the telephone located on the premises available for use in case of emergency. A telephone located in an office in the center that is sometimes locked during the time the children are present shall not be designated for use in an emergency.
- b. One person identified as the person or alternate responsible for carrying out the emergency medical care plan and ensuring that appropriate medical care is given shall:
1. be on the premises at all times; and
  2. accompany children for off premise activities.
- c. Emergency medical care information shall be on file for each child. That information shall include:
1. the name, address, and telephone number of the parent or other person to be contacted in case of an emergency;
  2. the responsible party's choice of health care professional;
  3. any chronic illness and any medication taken for that illness; and
  4. any other information that has a direct bearing on ensuring safe medical treatment for the child.

This emergency medical care information shall be on file in the center on the child's first day of attendance and shall be updated as changes occur and at least annually.

- d. Each child's parent, legal guardian, or full-time custodian shall sign a statement authorizing the center to obtain medical attention for the child in an emergency. That statement shall be on file on the first day the child attends the center. It shall be easily accessible to staff so that it can be taken with the child whenever emergency medical treatment is necessary.
- e. The child care provider shall complete an incident report each time a child is injured as a result of an incident occurring while the child is in care. This incident report shall include:
1. the child's name, date and time of incident, part of body injured, type of injury;
  2. the names of adult witnesses to incident;
  3. a description of how and where incident occurred;
  4. the piece of equipment involved (if any);
  5. any treatment received; and
  6. the steps taken to prevent reoccurrence.

This report shall be signed by the person completing it and by the parent and maintained in the child's file. Copies of the form are maintained at the Division.

- f. When medical treatment is required by a health care professional, community clinic, or local health department as a result of an incident occurring while the child is in care; or is suspected to have resulted from negligence, abuse or misconduct, a copy of the incident report shall be reported to a representative of the Division within three calendar days after the incident.
- g. An incident log shall be completed any time an incident report is completed. This log shall:
1. include the name of the child;
  2. include the date of the incident;
  3. include the date the incident report was submitted to the Division, if applicable;
  4. include the name of the staff member who complete the incident report;
  5. be cumulative and maintained in a separate file and;
  6. be available for review by a representative of the Division.

This log shall be completed on a form provided by the Division.

- h. A First Aid information sheet shall be posted in a place for referral. The information sheet shall include first aid guidance regarding burns, scalds, fractures, sprains, head injuries, poisons, skin wounds, stings and bites. An information sheet may be requested free of charge from the North Carolina Child Care Health and Safety Resource Center at 1-800-367-2229.

#### **10A CAR 09 .0803 ADMINISTERING MEDICATION IN CHILD CARE CENTERS**

The following provisions apply to the administration of medication in child care centers:

- a. No prescription or over-the-counter medication and no topical, non-medical ointment, repellent, lotion, fluoridated toothpaste, cream or powder shall be administered to any child:
  - 1. without written authorization from the child's parent;
  - 2. without written instructions from the child's parent, physician or other health professional;
  - 3. in any manner not authorized by the child's parent, physician or other health professional;
  - 4. after its expiration date; or
  - 5. for non-medical reasons, such as to induce sleep.
  - 6. With a known allergy to the medication.
- b. Prescribed medications:
  - 1. Shall be stored in the original containers in which they were dispensed with the pharmacy labels;
  - 2. if pharmaceutical samples, shall be stored in the manufacturer's original packaging, shall be labeled with the child's name, and shall be accompanied by written instructions specifying:
    - i. the child's name;
    - ii. the name of the medication or the prescription number;
    - iii. the amount and frequency of dosage;
    - iv. The name of the prescribing physician or other health professional; and
    - v. The date the prescription was filled; or
  - 3. Shall be administered only to the child for whom they were prescribed; and
  - 4. Shall be administered according to the prescription, using amount and frequency of dosage specified on the label.
- c. A parent's written authorization for the administration of a prescription medication described in Item (2) of this Rule shall be valid for the length of time the medication is prescribed to be taken.
- d. Over-the-counter medications, such as cough syrup, decongestant, acetaminophen, ibuprofen, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be stored in the manufacturer's original packaging on which the child's name is written or labeled and shall be accompanied by written instructions specifying:
  - 1. the child's name;
  - 2. the names of the authorized over-the-counter medication;
  - 3. the amount and frequency of the dosages;
  - 4. the signature of the parent, physician or other health professional; and
  - 5. the date the instructions were signed by the parent, physician or other health professional.The permission to administer over-the-counter medications is valid for up to 30 days at a time, except as allowed in Items (6), (7), (8), (9) of this Rule. Over-the-counter medications shall not be administered on an "as needed" basis, other than as allowed in Items (6), (7), (8), and (9) of this Rule.
- e. When questions arise concerning whether any medication should be administered to a child, the caregiver may decline to administer that medication without signed, written dosage instructions from a licensed physician or authorized health professional.

- f. A parent may give a caregiver standing authorization for up to six months to administer prescription or over-the-counter medication to a child, when needed, for chronic medical conditions and for allergic reactions. The authorization shall be in writing and shall contain:
  - 1. the child's name;
  - 2. the subject medical conditions or allergic reactions;
  - 3. the names of the authorized over-the-counter medications;
  - 4. the criteria for the administration of the medication;
  - 5. the amount and frequency of the dosages;
  - 6. the manner in which the medication shall be administered;
  - 7. the signature of the parent;
  - 8. the date the authorization was signed by the parent; and
  - 9. the length of time the authorization is valid, if less than six months.
- g. A parent may give a caregiver standing authorization for up to 12 months to apply over-the-counter, topical ointments, topical teething ointment or gel, insect repellents, lotions, creams, and powders—such as sunscreen, diapering creams, baby lotion, and baby powder – to a child, when needed. The authorization shall be in writing and shall contain:
  - 1. the child's name;
  - 2. the names of the authorized ointments, repellents, lotions, creams, fluoridated toothpaste and powders;
  - 3. the criteria for the administration of the ointments, repellents, lotions, creams, fluoridated toothpaste, and powders;
  - 4. the manner in which the ointments, repellents, lotions, creams, fluoridated toothpaste, and powders shall be applied;
  - 5. the signature of the parent;
  - 6. the date the authorization was signed by the parent; and
  - 7. the length of time the authorization is valid, if less than 12 months.
- h. A parent may give a caregiver standing authorization to administer a single weight-appropriate dose of acetaminophen to a child in the event the child has a fever and a parent cannot be reached. The authorization shall be in writing and shall contain:
  - 1. the child's name;
  - 2. the signature of the parent;
  - 3. the date the authorization was signed by the parent;
  - 4. the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- i. A parent may give a caregiver standing authorization to administer an over-the-counter medication as directed by the North Carolina State Health Director or designee, when there is a public health emergency as identified by the North Carolina State Health Director or designee. The authorization shall be in writing, may be valid for as long as the child is enrolled, and shall contain:
  - 1. the child's name;
  - 2. the signature of the parent;
  - 3. the date the authorization was signed by the parent; and
  - 4. the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- j. A caregiver may administer medication to a child without parental authorization in the event of an emergency medical condition when the child's parent is unavailable, providing the medication is administered with the authorization and in accordance with instructions from a bona fide medical care provider.
- k. A parent may withdraw written authorization for the administration of medications at any time in writing.

- l. Any medication remaining after the course of treatment is completed, after authorization is withdrawn or after authorization has expired shall be returned to the child's parents. Any medication the parent fails to retrieve within 72 hours of completion of treatment, or withdrawal of authorization, shall be discarded.
- m. Any time prescription or over-the-counter medication is administered by center personnel to children receiving care, including any time medication is administered in the event of an emergency medical condition without parental authorization, the following information shall be recorded:
  1. the child's name;
  2. the date the medication was given;
  3. the time the medication was given;
  4. the amount and type of medication given; and
  5. the name and signature of the person administering the medication.
- n. If medication is administered in error, whether administering the wrong dosage, giving to the wrong child, or giving the incorrect type of medicine, the child care center shall:
  1. Call 911 in accordance with CPR or First Aid training recommendations;
  2. Notify the center director;
  3. Contact the child's parent;
  4. Observe the child; and
  5. Document the medication error in writing, including:
    - i. the child's name and date of birth;
    - ii. the type and dosage of medication administered;
    - iii. the name of the person who administered the medication;
    - iv. the date and time of the error;
    - v. the signature of the child care administrator, the parent and the staff member who administered the medication;
    - vi. the actions taken by the center following the error; and
    - vii. the actions that will be taken by the center to prevent a further error.

This documentation shall be maintained in the child's file.

#### **10A CAR 09 .0804 INFECTIOUS AND CONTAGIOUS DISEASES**

- a. Centers may provide care for a mildly ill child who has a Fahrenheit temperature of less than 100.4 degrees by any method including axillary or orally, so long as the child shall not have any of the following:
  1. more than two stools above the child's normal pattern and diarrhea is not contained by a diaper or when toilet-trained children are having accidents;
  2. two or more episodes of vomiting within a 12-hour period;
  3. lice, until completion of first treatment;
  4. Conjunctivitis (or Pink Eye) characterized by a red eye with white or yellow eye discharge, until 24 hours after treatment has started;
  5. Scabies
  6. Chicken pox or a rash suggestive of chicken pox;
  7. strep throat, until 24 hours after antibiotic treatment has started and no fever is present;
  8. tuberculosis, until a health professional provides a written statement that the child is not infectious;
  9. pertussis, until five days after treatment has started;
  10. hepatitis A virus infection, until one week after onset of illness or jaundice;
  11. impetigo, until 24 hours after treatment has started;
  12. a physician's or other health professionals' written order that the child be separated from other children, or

13. exclusion for symptoms not included in this list shall be required if the symptoms prevent the child from participating comfortably in activities as determined by staff members of the program or the symptoms result in a need for care that is greater than the staff members can provide without compromising the health and safety of other children.
- b. Centers that choose to provide care for mildly ill children shall:
1. follow all procedures to prevent the spread of communicable diseases described in 15A NCAC 18A .2800, "Sanitation of Child Care Centers", as adopted by the Commission for Public Health;
  2. separate from the other children any child who becomes ill while in care or who is suspected of having a communicable disease or condition other than as described in Paragraph (a) this Rule until the child leaves the center;
  3. notify all parents at enrollment that the center will be providing care for mildly ill children;
  4. notify the parent of any child who becomes ill or who is suspected of being ill with a communicable condition other than as described in Paragraph (a) this Rule that the child is ill and shall leave the center;
  5. notify the parent of any mildly ill child in care if the child's condition worsens while the child is in care.

#### **10A CAR 09 .0805 RESERVED FOR FUTURE USE**

#### **10A CAR 09 .0806 TOILETING, CLOTHING AND LINENS**

- a. Diapers will be changed whenever they become soiled or wet and not on a shift basis.
- b. The center shall ensure that clean clothes are available in the event that a child's clothes become wet or soiled. The change of clothing may be provided by the center or by the child's parents.
- c. A supply of clean linen must be on hand so that linens can be changed whenever they become soiled or wet.
- d. Staff shall not force children to use the toilet and staff shall consider the developmental readiness of each child during toilet training.
- e. Staff shall provide assistance to each child to ensure good hygiene.

### **SECTION .0900 NUTRITION STANDARDS**

#### **10A CAR 09 .0901 GENERAL NUTRITION REQUIREMENTS**

- a. Meals and snacks served to children in a child care center shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available online at <https://www.fns.usda.gov/cacfp/meals-and-snacks>.
- b. Menus for nutritious meals and snacks shall be planned at least one week in advance. At least one dated copy of the current week's menu shall be posted where it can be seen easily by parents and food preparation staff when food is prepared or provided by the center. A variety of food shall be included in meals and snacks. Any substitution shall be of comparable food value and shall be recorded on the menu.

- c. When children bring their own food for meals or snacks to the center, if the food does not meet the nutritional requirements specified in this Rule, the center must provide additional food necessary to meet those requirements.
- d. A child's parent may opt out of the supplemental food provided by the center as set forth in G.S. 110-91(2) h.1. When a child's parent opts out of the supplemental food provided by the center, the parent shall sign a statement acknowledging the parental decision shall be kept in the child's file at the center and a copy provided to the parent. A child's parent may opt out of the supplemental food provided by the center, subject to the following:
  - 1. the center shall not provide any food or drink so long as the child's parent or guardian provides all meals, snacks, and drinks scheduled to be served at the center's designated times;
  - 2. the ability to opt out of specific meals or days based on menu options is not available;
  - 3. if a child requests specific foods being served to other children, but the parent has opted out, the center shall not serve supplemental food; and
  - 4. if the child's parent or guardian has opted out but does not provide all meals and snacks for the child, the center shall replace the missing meal or snack as if the child's parent or guardian had not opted out of the supplemental food program.
- e. Drinking water must be freely available to children of all ages. Drinking fountains or individual drinking utensils shall be provided. When a private water supply is used, it must be tested by and meet the requirements of Tribe.
- f. The child care provider will provide only the following beverages:
  - 1. Breast milk, as specified in Paragraph (k) of this Rule;
  - 2. Formula;
  - 3. Water;
  - 4. Unflavored whole milk, for children ages 12-23 months;
  - 5. Unflavored skim or low-fat milk for children 24 months through five years;
  - 6. Unflavored skim milk, unflavored low-fat milk, or flavored skim milk for children six years and older; or
  - 7. 100 percent fruit juice limited to 6 ounces per day.
- g. Children's special diets or food allergies shall be posted in the food preparation area and in the child's eating area.
- h. The food required by special diets for medical, religious or cultural reasons, may be provided by the center or may be brought to the center by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the center and written instructions shall be provided by the child's parent, health care professional, or a licensed dietitian/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the center.
- i. Food that does not meet the nutritional requirements specified in this Rule, such as cookies, chips, donuts, etc., shall be available only for special occasions such as holidays, birthdays, and other celebrations.
- j. Staff shall role model appropriate eating behaviors by consuming only food or beverages that meet the nutritional requirements specified in this Rule in the presence of children in care.
- k. Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers shall be provided that include seating and an electrical outlet in a place other than a bathroom that is shielded from view by staff and the public which may be used by mothers while they are breastfeeding or expressing milk.
- l.

**10A CAR 09 .0902 GENERAL NUTRITION REQUIREMENTS FOR INFANTS**

- a. The parent or health care provider of each child under 15 months of age shall provide the center an individual written feeding schedule for the child. This schedule must be followed at the center. This schedule must include the child's name, be signed by the parent or health care provider, and be dated when received by the center. Each infant's schedule shall be modified in consultation with the child's parent or health care provider to reflect changes in the child's needs as he or she develops. The feeding instructions for each infant shall be posted for quick reference by the caregivers, except in centers licensed for three to 12 children located in a residence.
- b. Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age appropriate seating apparatus to be fed. The feeding chair or other seating apparatus shall be disassembled for cleaning purposes.
- c. Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietitian/nutritionist.
- d. Each infant shall be served only bottles labeled with their individual name.

**10A CAR 09 .0903 REQUIREMENTS FOR CHILDREN AGED 24 MONTHS AND OLDER**

Meals and snacks shall be planned according to the number of hours a child is in the center. Children shall be provided a meal or snack a minimum of every four hours. These rules apply in all situations except during sleeping hours and nighttime care:

At least 2 hours but less than 4 hours	Preschool-age children	1 snack, unless child is present during the time a meal is being served
Any hours in care	School-age children	1 snack, unless child is present during the time a meal is being served
At least 4 hours but less than 6 hours	All Children	1 meal equal to 1/3 of the child's daily food needs
At least 6 hours but less than 12 hours	All Children	2 meals and 1 snack OR 2 snacks and 1 meal equal to 1/2 of the child's daily food needs
More than 12 hours	All Children	2 snacks and 2 meals equal to 2/3 of the child's daily food needs
Second Shift (approximately 3:00 p.m. to 11:00 p.m.)	All Children	1 meal

**SECTION .1000 TRANSPORTATION STANDARDS**

**10A CAR 09 .1001 SEAT AND CHILD SAFETY SEATS IN CHILD CARE CENTERS**

- a. When children enrolled in a child care center are being transported, each adult and child shall be restrained with an individual seat belt or child safety seat appropriate to the child's age or weight in accordance with G.S. 20-135.2 A located at <http://www.buckleupnc.org/occupantrestraint-laws/seat-belt-law-summary/>.
- b. Only one person shall occupy each seat belt or child safety seat.
- c. Children shall not occupy the front seat if the vehicle is equipped with an operational passenger side airbag.



#### **10A CAR 09 .1002 SAFE VEHICLES**

- a. Vehicles used to transport children enrolled in child care centers shall be free of hazards such as, but not limited to, torn upholstery that allows children to remove the interior padding, broken windows, holes in the floor or roof, or tire treads of less than 2/32 of an inch.
- b. Vehicles shall be insured for liability as required by State laws governing transportation of passengers.
- c. Vehicles used to transport children enrolled in child care centers shall comply with all applicable State and federal laws and regulations.
- d. Vehicles used to transport children in snowy, icy, and other hazardous weather conditions must be equipped with snow tires, chains, or other safety equipment as appropriate.

#### **10A CAR 09 .1003 SAFE PROCEDURES**

- a. The driver or other adult in the vehicle shall ensure that all children are transferred to a responsible person who is indicated on the child's application as specified in Rule .0801(1)(g) of this Chapter or as authorized by the parent.
- b. Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be communicated to parents, and a copy shall be posted in the center where they can be seen by the parents.
- c. A First Aid kit and fire extinguisher shall be located in each vehicle used to transport children. The First Aid kit and fire extinguisher shall be mounted or secured if kept in the passenger compartment.
- d. For each child being transported, identifying information, including the child's name, photograph, emergency contact information, and a copy of the emergency medical care information form required by Rule .0802(c) of this Chapter, shall be in the vehicle.
- e. The driver shall:
  - a. be 21 years old or a licensed bus driver;
  - b. have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides; and
  - c. Have no convictions of Driving While Impaired (DWI) or any other impaired driving offense within the previous three years.
- f. Each person in the vehicle shall be seated in the manufacturer's designated areas. No child shall ride in the load carrying area or floor of a vehicle.
- g. Children shall not be left in a vehicle unattended by an adult.
- h. Children shall be loaded and unloaded from curbside or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards.
- i. Before children are transported, written permission from a parent shall be obtained that shall include when and where the child is to be transported, expected time of departure and arrival, and the transportation provider.
- j. Parents may give standing permission, valid for up to 12 months, for transport of children to and from the center not including off premise activities as described in Rule .1005 of this Section.
- k. When children are transported, staff in each vehicle shall have a functioning cellular telephone or other functioning two-way voice communication device with them for use in an emergency. Staff shall not use cellular telephones or other functioning two-way voice communication devices except in the case of an emergency and only when the vehicle is parked in a safe location.
- l. For routine transport of children to and from the center, staff shall have a list of the children being transported. Staff members shall use this list to check attendance as children board the vehicle and as they depart the vehicle. A list of all children being transported shall also be available at the center.

#### **10A CAR 09 .1004 STAFF/CHILD RATIOS**

- a. When children aged two years and older are being transported, the staff/child ratios required for compliance with child care center rules as set forth in Rule .0713 of this Chapter shall apply. The driver may be counted in the staff/child ratio.
- b. (b) When three or more children under the age of two years are being transported, the staff/child ratio requirements for child care centers set forth in Rule .0713 of this Chapter for children under age two shall be maintained. The driver shall not be counted in the staff/child ratio.
- c. (c) When less than three children under the age of two years are being transported, the staff/child ratio requirements for child care centers set forth in Rule .0713 of this Chapter for children under age two shall be maintained. The driver may be counted in the staff/child ratio.

#### **10A CAR 09 .1005 OFF PREMISE ACTIVITIES IN CHILD CARE CENTERS**

- a. Off premise activities refer to any activity that takes place away from a child care center's licensed and approved space. Licensed and approved space includes "primary space" as described in 10A CAR 09 .1401(a), outdoor space as described in 10A CAR 09 .1402, single use rooms, or other administrative areas.
- b. When children participate in off premise activities the following shall apply:
  1. Children under the age of three shall not participate in off premise activities that involve children being transported in a motor vehicle.
  2. When children are transported in a motor vehicle for off premise activities, the provisions in Rule .1003 of this Chapter shall apply.
  3. Before staff members walk children off premises for play or outings, the parent of each child shall give written permission for the child to be included in such activities.
  4. Parents may provide a written statement giving standing permission which may be valid for up to 12 months for participation in off premise activities that occur on a regular basis.
  5. The facility shall post a schedule of off premise activities in each participating classroom where it can be easily viewed by parents, and a copy shall be given to parents. The schedule shall be current and shall include the:
    - A. Location of the activity,
    - B. Purpose of the activity,
    - C. Time the activity will take place,
    - D. Date of the activity; and
    - E. Name of the person(s) to be contacted in the event of an emergency.
  6. Each time that children are taken off the premises, staff shall take a list of the children participating in the activity with them. Staff members shall use this list to check attendance when leaving the facility, periodically when the children are involved in the activity, before leaving the activity to return to the child care facility, and upon return to the facility. A list of all children participating in the off- premise activity shall also be available at the center.
- c. The provisions of Subparagraphs (b)(1) and (5) of this Rule shall be waived to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).

**SECTION .1100 CONTINUING EDUCATION AND PROFESSIONAL DEVELOPMENT**

**10A CAR 09 .1101 NEW STAFF ORIENTATION REQUIREMENTS**

- a. Each center shall ensure that each new employee who is expected to have contact with children receives 16 clock hours of on-site orientation within the first six weeks of employment. As part of this orientation, each new employee shall complete six clock hours of orientation within the first two weeks of employment.
- b. New staff orientation shall include an overview of the following topics, focusing on the operation of the center:

<b>Within first two weeks of employment</b>	<b>Within first six weeks of employment</b>
Information regarding recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301	Firsthand observation of the center's daily operations
Review of the center's operational policies, including the center's safe sleep policy for infants, the center's policy for transportation, the center's identification of building and premises safety issues, the Emergency Preparedness and Response Plan, and the emergency medical care plan	Instruction in the employee's assigned duties
Adequate supervision of children in accordance with 10A CAR 09 .1801	Instruction in the maintenance of a safe and healthy environment
Information regarding prevention of shaken baby syndrome and abusive head trauma and child maltreatment	Instruction in the maintenance of a safe and healthy environment
Prevention and control of infectious diseases, including immunization	Review of the center's purposes and goals
	Review of the child care licensing law and rules
	An explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource
	An explanation of the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations
	Prevention of and response to emergencies due to food and allergic reactions
	Review of the center's handling and storage of hazardous materials and the appropriate disposal of biocontaminants

**10A CAR 09 .1102 HEALTH AND SAFETY TRAINING REQUIREMENTS**

- a. Child care administrators and staff members shall complete health and safety training within one year of employment, unless the staff member has completed the training within the year prior to beginning employment. Health and safety training shall be in addition to the new staff orientation

requirements set forth in Rule .1101 of this Section. The following persons shall be exempt from this requirement:

- a. staff members that do not have caregiving responsibilities for a child or group of children;
  - b. service providers such as speech therapists, occupational therapists, and physical therapists; and
  - c. substitute providers who provide services for less than 10 days in a 12-month period.
- b. The health and safety training shall include the following topic areas:
- a. Prevention and control of infectious diseases, including immunization;
  - b. Administration of medication, with standards for parental consent;
  - c. Prevention of and response to emergencies due to food and allergic reactions;
  - d. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - e. Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;
  - f. Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;
  - g. Precautions in transporting children, if applicable;
  - h. Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
  - i. CPR and First Aid training as required in Paragraphs (c) and (d) of this Rule;
  - j. Recognizing and reporting child abuse, child neglect, and child maltreatment; and
  - k. Prevention of sudden infant death syndrome and use of safe sleeping practices.
- c. All staff who provide direct care or accompany children when they are off premises shall successfully complete certification in First Aid appropriate to the ages of children in care. The training shall be completed by June 30, 2018, or for new staff hired on or after September 1, 2017, training must be completed within 90 days of employment. Distance learning shall not be permitted for First Aid training. At all times when children are in care at least one staff member present must have successfully completed First Aid training, as evidenced by a certificate or card from an approved training organization. First Aid training shall be renewed on or before expiration of the certification. "Successfully completed" is defined as demonstrating competency, as evaluated by the instructor. Verification of each required staff member's completion of this course from an approved training organization shall be maintained in the staff member's file in the center. A list of approved training organizations can be found at [http://ncchildcare.nc.gov/providers/pv\\_sn2\\_ov\\_pd.asp](http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp).
- d. All staff who provide direct care or accompany children when they are off premises shall successfully complete certification in a cardiopulmonary resuscitation (CPR) course appropriate to the ages of children in care. At all times when children are in care one staff member present must have successfully completed CPR training. The training shall be completed by June 30, 2018 or for new staff hired on or after September 1, 2017 training must be completed within 90 days of employment. Distance learning shall not be permitted for CPR training. CPR training shall be renewed on or before the expiration of the certification. Verification of each staff member's completion of this course from an approved training organization shall be maintained in the staff member's file in the center. A list of approved training organizations can be found at [http://ncchildcare.nc.gov/providers/pv\\_sn2\\_ov\\_pd.asp](http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp).
- e. One staff member shall complete training in playground safety. This training shall address playground safety hazards, playground supervision, maintenance and general upkeep of the outdoor learning environment, and age and developmentally appropriate playground materials and equipment. Distance learning shall not be permitted for playground safety training. Completion of playground safety training shall be included in the number of hours needed to meet annual on-going

training requirements in this Section. Staff counted to comply with this Rule shall have six months from the date of employment, or from the date a vacancy occurs, to complete the required safety training. A certificate of each designated staff member's completion of this course shall be maintained in the staff member's file in the center.

- f. In centers that are licensed to care for infants, the child care administrator and any child care provider scheduled to work in the infant room shall complete ITS-SIDS training. ITS-SIDS training shall be completed within two months of an individual assuming responsibilities in the infant room and every three years thereafter. Child care administrators, as defined in G.S. 110- 86(2a), shall complete ITS-SIDS training within 90 days of employment and every three years thereafter. Completion of ITS-SIDS training shall be included once every three years in the number of hours needed to meet on-going training requirements in this Section. At all times, one child care provider who has completed ITS-SIDS training shall be present in the infant room while children are in care. A certificate of each staff member's completion of this course shall be maintained in the staff member's file in the center.
- g. The child care administrator and all staff members shall complete Recognizing and Responding to Suspicions of Child Maltreatment training within 90 days of employment. This training shall count toward requirements set forth in Rule .1103 of this Section. Recognizing and Responding to Suspicions of Child Maltreatment training is available at <https://www.preventchildabusenc.org/services/trainings-and-professional-development/rcourse>. A certificate of each staff member's completion of this course shall be maintained in the staff member's file in the center.

**10A CAR 09 .1103 ON-GOING TRAINING REQUIREMENTS**

- a. After the first year of employment, the child care administrator and any staff who have responsibility for planning and supervising a child care center, and staff who work with children, shall participate in on-going training activities annually, as follows:

<b>Education and Experience</b>	<b>Required Training</b>
Four-year degree or higher advanced degree in a child care related field of study from a regionally accredited college or university	5 clock hours
Two-year degree in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Administration Credential	8 clock hours
Certificate or diploma in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Credential	10 clock hours
10 years documented experience as a teacher, director, or caregiver in a licensed child care arrangement	15 clock hours
If none of the other criteria in this chart apply 2	20 clock hours

- b. Health and safety training shall be completed as part of on-going training so that every five years, all of the topic areas set forth in 10A CAR 09 .1102(b) will have been covered
- c. Completion of cardiopulmonary resuscitation (CPR) and First Aid training shall not be counted toward meeting annual on-going training requirements.
- d. A combination of college coursework, Continuing Education Units (CEU's) or clock hours shall be used to complete the requirements in Paragraph (a) of this Rule.

- e. Any staff working less than 40 hours per week may choose to complete on-going training requirements as outlined in Paragraph (a) of this Rule, or the training requirement may be prorated as follows:

Working Hour Per Week	Clock Hours Required
0-10	5
11-20	10
21-30	15
31-40	20

- f. For purposes of this Rule, "regionally accredited" means a college or university accredited by one of the following accrediting bodies:
- a. Middle States Association of Colleges and Schools;
  - b. New England Association of School and Colleges;
  - c. North Central Association of Colleges and Schools;
  - d. Northwest Accreditation Commission;
  - e. Southern Association of Colleges and Schools; or
  - f. Western Association of Schools and Colleges.

**10A CAR 09 .1104 PROFESSIONAL DEVELOPMENT PLAN**

All center administrators and staff members shall complete a professional development plan within one year of employment and review the plan annually. The plan shall:

- a. document the individual's professional development goals;
- b. be appropriate for the ages of children in their care;
- c. include the continuing education, coursework, or training needed to meet the individual's planned goals;
- d. be completed by the administrator and staff member in a collaborative manner; and
- e. be maintained in their personnel file.

Sample professional development plan templates are maintained at the Division. Another form may be used other than the sample templates provided by the Division as long as the form includes the information set forth in this Rule.

**10A CAR 09 .1105 TRAINING APPROVAL**

Staff may meet the on-going training requirements by attending child-care workshops, conferences, seminars, or courses, provided each training activity satisfies the following criteria:

- a. Prior approval from the Division shall not be required for training offered by a college or university with nationally recognized regional accreditation, a government agency, or a state, or international professional organization or its affiliates, provided the content complies with G.S. 110-91(11). Government agencies or state or national professional organizations who provide training shall submit an annual training plan for review by the Division. The plan shall not be required for any state, national, or international conferences sponsored by a professional child care organization.
- b. Prior approval from the Division shall be required for any agencies, organizations, or individuals not specified in Item (1) of this Rule who wish to provide training for child care operators and staff. To obtain such approval, the agency, organization, or individual shall:
  - a. complete and submit on-going training approval forms provided by the Division 15 business days prior to the training event that includes the name and qualifications of the trainer, name of training, target audience and content of the training;

- b. (b) submit a training roster, to the Division, listing the attendees' name, the county of employment, and day time phone number no later than 15 days after the training event;
  - c. (c) provide training evaluations to be completed by attendees; and
  - d. (d) keep the training rosters and evaluations on file for two years.
- c. Distance learning shall be permitted from trainers approved by the Division or offered by an accredited post-secondary institution, as listed on the United States Department of Education's Database of Accredited Post-Secondary Institutions and Programs at <http://ope.ed.gov/accreditation/>. Distance learning shall not be permitted for Cardiopulmonary Resuscitation (CPR), First Aid, and playground safety training.
- d. The Division shall approve training based upon the following factors:
- a. The trainer's education, training, and experience relevant to the training topic;
  - b. Content that is in compliance with G.S. 110-91(11); and
  - c. Contact hours for the proposed content and scope of the training session.
- e. The Division shall deny approval of training to:
- a. Agencies, organizations, or individuals not meeting the standards listed in this Rule and in G.S. 110-91(11); and
  - b. Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division.
- f. Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division pursuant to this Rule shall be permanently ineligible to apply for approval of training.
- g. Denial of approval of training or a determination of falsification is appealable pursuant to G.S. 110-94 and the North Carolina Administrative Procedure Act, G.S. 150B-23.

**10A CAR 09 .1106 DOCUMENTATION OF TRAINING**

Each center shall have a record of training activities in which each staff member participates, including copies of training certificates or official documentation provided by the trainer. That record shall include the subject matter, topic area in G.S. 110-91(11), training provider, date provided, hours, and name of staff who completed the training. This documentation shall be on file and current.

**SECTION .1300 BUILDING CODE REQUIREMENTS FOR CHILD CARE CENTERS**

**10A CAR 09 .1301 BUILDING CODE REQUIREMENTS FOR CENTERS**

The North Carolina State Building Code standards for child care facilities is hereby incorporated by reference, including subsequent amendments and editions. The current Code may be found online at [http://www.ncdoi.com/OSFM/Engineering\\_and\\_Codes/Default.aspx?field1=Codes\\_-\\_Current\\_and\\_Past&user=State\\_Building\\_Codes](http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Current_and_Past&user=State_Building_Codes).

**10A CAR 09 .1302 BUILDING CODE REQUIREMENTS FOR CHILD CARE CENTERS**

**10A CAR 09 .1303 BUILDING CODE REQUIREMENTS FOR SMALL GROUP FACILITIES LICENSED PRIOR TO 7/1/88**

**10A CAR 09 .1304 REQUIREMENTS FOR CHILD CARE CENTERS LICENSED IN A RESIDENCE**

**SECTION .1400 SPACE REQUIREMENTS**

**10A CAR 09 .1401 INDOOR SPACE**

- a. As used in this Rule, the term "Primary Space" means the indoor space designated by the operator that will be used by children who attend the center. It shall be used to calculate a center's licensed capacity.
- b. The Division shall calculate the total area of the Primary Space by measuring the Primary Space or by reviewing current drawings of the space that have been signed and sealed by an architect or engineer licensed to practice in the State of North Carolina.
- c. All measurements of the Primary Space shall be rounded to the nearest inch.
- d. For child care centers in an occupied residence that are licensed for 3 to 12 children when any preschool-age children are in care, or for 3 to 15 children when only school-age children are in care the dining area of a kitchen may be counted as Primary Space if it is used for children's activities in addition to eating.
- e. The following spaces shall not be included in the designation or measurement of Primary Space:
  - a. closets;
  - b. hallways;
  - c. storage areas;
  - d. kitchens;
  - e. bathrooms;
  - f. utility areas;
  - g. thresholds;
  - h. foyers;
  - i. space used for administrative activities;
  - j. space occupied by adult-sized desks, cabinets, file cabinets, and other office equipment;
  - k. any floor space occupied by or located under structures, equipment, and furniture not used by children; and
  - l. any floor space occupied by or located under built-in equipment or furniture.
- f. No room may be occupied by more than one child per 25 square feet of floor space, provided that a room may be occupied by a larger group of children for special activities so long as such occupancy does not violate the State fire code.
- g. During rest periods any room used by children shall have no less than 200 cubic feet of air space per child.
- h. Paragraphs (a) through (c) and (e) through (g) of this Rule shall only apply to centers initially licensed on or after February 1, 1985.

**10A CAR 09 .1402 OUTDOOR SPACE**

1. When a center is licensed for 6 to 29 children, the outdoor play area shall be no smaller than 75 square feet times the total number of children for which the center is licensed.
2. When a center is licensed for 30 or more children, the outdoor play area shall be no smaller than 75 square feet times one-half of the total number of children for which the center is licensed or shall be 2,250 square feet, whichever is larger.
3. Paragraphs (1) and (2) of this Rule apply only to child care centers initially licensed after April 1, 1984.



4. The outdoor play area shall provide an area that is shaded by a building, awnings, trees, or other methods.
5. The outdoor area shall be designed so that staff are able to see and easily supervise the entire area in accordance with 10A CAR 09 .1801

**10A CAR 09 .1403 ACTIVITIES INVOLVING WATER IN CHILD CARE CENTERS**

- a. The requirements in this Rule apply to child care center "aquatic activities," which are defined as activities that take place in or around a body of water such as swimming, swimming instruction, wading, and visits to water parks. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.
- b. Aquatic activities involving the following are prohibited:
  - a. hot tubs;
  - b. spas;
  - c. saunas or steam rooms;
  - d. portable wading pools; and
  - e. natural bodies of water and other unfiltered, nondisinfected containments of water.
- c. For every 25 children in care participating in aquatic activities, there shall be at least one person who has a life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activities. These lifeguards shall not be counted in the required staff-child ratios referenced Paragraph (e) of this Rule.
- d. Children under the age of three shall not participate in aquatic activities except, to the extent necessary, to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).
- e. The following staff/child ratios shall be maintained whenever children participate in aquatic activities:

Age of Children	Ratio Staff/Children
3 to 4 Years	1/8
4 to 5 Years	1/10
5 Years and Older	1/13

Notwithstanding the staff-child ratios, at no time shall there be fewer than two staff members supervising the aquatic activity.

- f. Children shall be adequately supervised by center staff at all times while participating in aquatic activities. For purposes of this Rule, "Adequate supervision" means that half of the center staff needed to meet the staff-child ratios in Paragraph (e) of this Rule is in the water and the other half is out of the water. If an uneven number of staff are needed to meet the required staff/child ratios, the majority shall be in the water. Staff shall be stationed in pre-assigned areas that will enable them at all times to hear, see, and respond to the children whether in or out of the water. Children shall not enter the water before center staff are stationed in their pre-assigned areas. Center staff shall devote their full attention to supervising the children in their preassigned areas of coverage and shall communicate with one another about children moving from one area to another area.
- g. Prior to children participating in aquatic activities, the center shall develop policies that address the following:
  1. aquatic safety hazards;
  2. pool and aquatic activity area supervision including restroom or changing room use;
  3. how discipline is handled during aquatic activities;
  4. the facility's specific field trip and transportation policies and procedures; and

5. that children shall be directed to exit the water during an emergency.
- h. Before staff first supervise children on an aquatic activity, and annually thereafter, staff shall sign and date statements that they have reviewed:
  1. The center policies as specified in Paragraph (G) this Rule;
  2. Any guidelines provided by the pool operator or other off-site aquatic facility; and
  3. The requirements of this Rule.

The statement shall be maintained in the staff person's personnel file for one year or until it is superseded by a new statement.

- i. Centers shall obtain written permission from parents for participation in aquatic activities. The written permission shall include a statement that parents are aware of the center's aquatic policies specified in Paragraph (g) of this Rule. The center shall maintain copies of written parental permission in each child's file.
- j. Any outdoor swimming pool which is located on the child care facility premises shall be enclosed by a fence and shall be separated from the remaining outdoor play area by that fence.
- k. Swimming pool safety rules shall be posted in a prominent place visible to children and staff for any swimming pool located on the child care facility premises. These rules shall state:
  1. the location of a first-aid kit;
  2. that only water toys are permitted;
  3. that children shall not run or push one another;
  4. that swimming is allowed only when an adult is present and staffing ratios are met; and
  5. that glass objects are not allowed.
- l. All swimming pools used by children shall meet the "Rules Governing Public Swimming Pools" in accordance with North Carolina regulation 15A NCAC 18A .2500 which is incorporated by reference, including subsequent amendments. A copy of these Rules can be found at <http://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> and is available at no charge.
- m. Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation shall be permitted.
- n. Boating, rafting, and canoeing activities are permitted. Prior to participating in recreational activities conducted on the water, children shall wear an age or size appropriate personal floatation device approved by the United States Coast Guard. This personal floatation device shall be worn for the duration of the activity.

**SECTION .1500 TEMPORARY CARE REQUIREMENTS- RESERVED FOR FUTURE CODIFICATION**

**SECTION .1600 REQUIREMENTS FOR VOLUNTARY ENHANCED PROGRAM STANDARDS- RESERVED FOR FUTURE CODIFICATION**

**SECTION .1700 FAMILY CHILD CARE HOME REQUIREMENTS**

**10A CAR 09 .1701 GENERAL PROVISIONS RELATED TO LICENSURE OF HOMES**

**10A CAR 09 .1702 APPLICATION FOR A LICENSE FOR A FAMILY CHILD CARE HOME**

- a. Any person who plans to operate a family child care home (FCCH) shall apply for a license using a form provided by the PHHS Division. Only one licensed family child care home shall operate at the location address of any home. The application for a family child care home license shall include the following information:
- a. owner name;
  - b. facility name, address, phone number, and location address;
  - c. facility contact information;
  - d. requested age range of children in the child care center;
  - e. hours of operation;
  - f. type of care to be provided;
  - g. type of building;
  - h. type of family child care home;
  - i. proposed opening date;
  - j. proposed number of children to be served;
  - k. type of business operation;
  - l. history of operation or licensing of child care facilities; and
  - m. signature of applicant of either:
    - i. the individual who will be responsible for the operation of the family child care home and for assuring compliance with G.S. 110, Article 7 and this Chapter; or
    - ii. an officer of an entity who will be responsible for the operation of the family child care home and for ensuring compliance with G.S. 110, Article 7 and this Chapter.

Upon receipt of the application, the Division shall assess the information provided to determine if the prospective licensee may be denied a license for one or more of the reasons set forth in 10A CAR 09 .2215.

- b. The applicant for a family child care home license shall also submit supporting documentation with the application for a license to the Division. The supporting documentation shall include:
- a. a copy of a non-expired qualification letter in accordance with 10A CAR 09 .2702;
  - b. a copy of documentation of completion of a First Aid, automated external defibrillator (AED) and cardiopulmonary resuscitation (CPR) course within 12 months prior to applying for a license;
  - c. a copy of documentation of completion of ITS-SIDS training within 12 months prior to applying for a license, if requesting a license to care for infants ages 12 months and younger;
  - d. proof of negative results of the applicant's tuberculosis test completed within the past 12 months;

- e. a completed health questionnaire; a copy of the health questions can be obtained from the Division and includes a statement signed by the staff member that indicates that the person is emotionally and physically fit to care for children;
  - f. a copy of non-expired pet vaccinations for any pet in the home;
  - g. if a home has a private well, a negative well water bacteriological analysis;
  - h. copies of any inspections required by local ordinances; and
  - i. any other documentation required by the Division according to the rules in this Section to support the issuance of a license.
- c. Upon receipt of a complete application and supporting documentation, a Division representative shall make an announced visit to each home. An announced visit is not required by a Division representative if the applicant is subject to the circumstances in 10A CAR 09 .2214. The issuance of a license applies as follows:
- 1. if all applicable requirements of C.C. 110, Article 1 and this Section are met, a six-month temporary license shall be issued;
  - 2. if the applicable requirements of C.C. 110, Article 1 and this Section are not met, the Division representative shall establish with the applicant a time period for the home to achieve compliance. If the Division representative determines that all applicable requirements of this Section are met within the established time period, a license shall be issued; or
  - 3. if all applicable requirements of C.C. 110, Article 1 and this Section are not met or cannot be met within the established time, the Division shall deny the application.
- d. A family child care home operator shall notify the Division no later than 30 calendar days prior to relocation of a family child care home. The operator must apply for a license for the new physical location as described in Paragraph (a) of this Rule. An operator requesting relocation of the family child care home shall not operate until he or she has received a license from the Division for the new location.
- e. The family child care home license shall not be bought, sold, or transferred from one individual to another.
- f. The family child care home license shall be valid only for the location address listed on it.
- g. The family child care home license shall be returned to the Division in the event of termination, revocation, suspension, or summary suspension.
- h. A family child care home licensee shall notify the Division in writing if a change occurs that affects the information shown on the license. The Division shall issue a new license upon verification of the operator's compliance with all applicable requirements in this Section for the change. This includes the following:
- a. decreasing the capacity of the family child care home;
  - b. increasing the capacity of the family child care home;
  - c. changes to shifts of care;
  - d. requests to change the age range of the family child care home;
  - e. requests to remove a restriction from the license, including documentation of steps taken by the operator to comply with requirements which resulted in the licensure restriction; and
  - f. changes to the operator's legal name.
- i. The family child care home license shall be posted in a place in the home that parents are able to view daily.

**10A CAR 09 .1703 ON-GOING REQUIREMENTS FOR FAMILY CHILD CARE HOME OPERATORS**

- a. After receiving a license, family child care home operator shall:

- a. Update the health questionnaire annually. The Division may request an evaluation of the operator's emotional and physical fitness to care for children when there is reason to believe that there has been a deterioration in the operator's emotional or physical fitness to care for children. This request may be based upon factors such as observations by the director or center staff, reports of concern from family, reports from law enforcement or reports from medical personnel. The Division may require the operator to obtain written proof that he or she is free of active tuberculosis when the Division determines that the operator was exposed to a person with active tuberculosis;
  - b. Renew First Aid training on or before expiration of the certification appropriate for the ages of children in care;
  - c. Renew CPR course on or before the expiration of the certification appropriate for the ages of children in care;
  - d. Renew ITS-SIDS training every three years from the completion of previous ITS-SIDS training; and
  - e. Complete Recognizing and Responding to Suspicions of Child Maltreatment training within 90 days of licensure. This training shall count toward set forth in Paragraph (d) of this Rule. Recognizing and Responding to Suspicions of Child Maltreatment training is available at <https://www.preventchildabusenc.org/>.
- b. Family child care home operators and staff members shall complete health and safety training within one year of employment, unless the operator or staff member has completed the training within the year prior to beginning employment or within the year prior to receiving a license. Health and safety training shall be in addition to the pre-licensing visit and new staff orientation requirements set forth in Rules .1702(d) and .1729(c) of this Section. The following persons shall be exempt from this requirement: (1) service providers such as speech therapists, occupational therapists, and physical therapists; and (2) substitutes who provide services for less than 10 days in a 12-month period.
- c. The health and safety training shall include the following topic areas:
- a. Prevention and control of infectious diseases, including immunization;
  - b. Administration of medication, with standards for parental consent;
  - c. Prevention of and response to emergencies due to food and allergic reactions;
  - d. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - e. Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;
  - f. Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;
  - g. Precautions in transporting children, if applicable;
  - h. Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
  - i. CPR and First Aid training as required in Rule .1102(c) and (d) of this Chapter;
  - j. Recognizing and reporting child abuse, child neglect, and child maltreatment; and
  - k. Prevention of sudden infant death syndrome and use of safe sleeping practices.
- d. After the first year of employment, the family child care home operator, and staff who work with children shall complete on-going training activities as follows:
- a.

Education and Experience	Required Training
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Four-year degree or higher advanced degree in a child care related field of study from a regionally accredited college or university	5 clock hours
Two-year degree in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Administration Credential	8 clock hours
Certificate or diploma in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Credential	10 clock hours
10 years documented experience as a teacher, director, or caregiver in a licensed child care arrangement	15 clock hours
If none of the other criteria in this chart apply	20 clock hours

- b. complete health and safety training as part of on-going training so that every five years, all the topic areas set forth in Paragraph (c) of this Rule will have been covered;
- c. cardiopulmonary resuscitation (CPR) and First Aid training shall not be counted toward meeting annual on-going training activities in Subparagraph (d)(a) of this Rule;
- d. a combination of college coursework, Continuing Education Units (CEU's) or clock hours shall be used to complete the requirements in Subparagraph (d)(a) of this Rule; and
- e. any staff working less than 40 hours per week may choose to complete on-going training requirements as outlined in Paragraph (d)(a) of this Rule or the training requirement may be prorated as follows:

WORKING HOURS PER WEEK	CLOCK HOURS REQUIRED
0-10	5
11-20	10
21-30	15
31-40	20

- e. For purposes of this Rule, "regionally accredited" means a college or university accredited by one of the following accrediting bodies:
  - a. Middle States Association of Colleges and Schools;
  - b. New England Association of School and Colleges;
  - c. North Central Association of Colleges and Schools;
  - d. Northwest Accreditation Commission;
  - e. Southern Association of Colleges and Schools; or
  - f. Western Association of Schools and Colleges.
- f. The family child care home operator and staff members shall complete a professional development plan within one year of employment and at least thereafter. The plan shall:
  - a. document the individual's professional development goals;
  - b. be appropriate for the ages of children in their care;
  - c. include the continuing education, coursework or training needed to meet the individual's planned goals;
  - d. be completed by the operator and staff member in a collaborative manner; and
  - e. be maintained in their personnel file.

Sample professional development plan templates may be obtained from the division. Another form may be used other than the sample templates provided by the Division as long as the form includes the information set forth in this Rule.

- g. Each family child care home operator shall have a record of training activities in which each staff member participates, including copies of training certificates or official documentation provided by the trainer. That record shall include the subject matter, topic area in G.S. 110-91(11), training provider, date provided, hours, and name of staff who completed the training. This documentation shall be on file and current.
- h. The family child care home operator and staff members may meet on-going training requirements by attending child-care workshops, conferences, seminars, or courses, provided each training activity satisfies the following criteria:
  - a. Prior approval from the Division shall not be required for training offered by a college or university with nationally recognized regional accreditation, a government agency, or a state, or international professional organization or its affiliates, provided the content complies with G.S. 110-91(11). Government agencies or state or national professional organizations who provide training shall submit an annual training plan for review by the Division. The plan is not required for any state, national, or international conferences sponsored by a professional child care organization.
  - b. Prior approval from the Division shall be required for any agencies, organizations, or individuals not specified in Subparagraph (1) of this Paragraph who wish to provide training for child care operators and staff. To obtain such approval, the agency, organization, or individual shall:
    - i. complete and submit on-going training approval forms provided by the Division 15 business days prior to the training event that includes the name and qualifications of the trainer, name of training, target audience and content of the training;
    - ii. submit a training roster, to the Division, listing the attendees' name, the county of employment, and day time phone number no later than 15 days after the training event;
    - iii. provide training evaluations to be completed by attendees; and (D) keep the training rosters and evaluations on file for two years.
  - c. Distance learning shall be permitted from trainers approved by the Division or offered by an accredited post-secondary institution, as listed on the United States Department of Education's Database of Accredited Post-Secondary Institutions and Programs at <http://ope.ed.gov/accreditation/>. Distance learning shall not be permitted for Cardiopulmonary Resuscitation (CPR) and First Aid.
- i. The Division shall approve training based upon the following factors:
  - a. the trainer's education, training, and experience relevant to the training topic;
  - b. content that is in compliance with G.S. 110-91(11); and
  - c. contact hours for the proposed content and scope of the training session.
- j. The Division shall deny approval of training to:
  - a. Agencies, organizations, or individuals not meeting the standards listed in this Rule and in G.S. 110-91(11); and
  - b. Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division.
- k. Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division pursuant to this Rule shall be permanently ineligible to apply for approval of training.
- l. Denial of approval of training or a determination of falsification is appealable pursuant to G.S. 110-94 and the North Carolina Administrative Procedure Act, G.S. 150B-23.

**10A CAR 09 .1704 CAREGIVER INTERACTIONS IN A FAMILY CHILD CARE HOME**

- A. Family child care home operators shall interact with children in positive ways by helping them feel welcome and comfortable, treating them with respect, listening to what they say, responding to them with acceptance and appreciation and participating in activities with the children. For example, family child care home operators shall:
  - a. make eye contact when speaking to a child;
  - b. engage children in conversation to share experiences, ideas and opinions;
  - c. help children develop problem-solving skills; and
  - d. facilitate learning by providing positive reinforcement, encouraging efforts and recognizing accomplishments.
- B. Family child care home operators shall respond to an infant or toddler's physical and emotional needs, especially when indicated by crying through actions such as feeding, diapering, holding, positive touching, smiling, talking and eye contact.
- C. The family child care home operator shall recognize the special difficulties of infant and toddler separations and assist families, infants, and toddlers to make the transition from home to the program as gently as possible.

**10A CAR 09 .1705 HEALTH AND TRAINING REQUIREMENTS FOR FAMILY CHILD CARE HOME OPERATORS**

**10A CAR 09 .1706 NUTRITION STANDARDS**

- a. Meals and snacks served to children in a Family Child Care Home shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available free of charge from the Division at the address in Rule .0101 of this Chapter.
- b. When children bring their own food for meals and snacks to the program, if the food does not meet the nutritional requirements specified in this Rule, the operator must provide the additional food necessary to meet those requirements.
- c. A child's parent may opt out of the supplemental food provided by the operator as set forth in G.S. 110-91(2) h.1. When a child's parent opts out of the supplemental food provided by the center, the operator shall obtain the parents signature acknowledging the parental decision and shall maintain the acknowledgment in the child's file at the home and provide a copy to the parent. A child's parent may opt out of the supplemental food provided by the center, subject to the following:
  - a. the operator shall not provide any food or drink so long as the child's parent or guardian provides all meals, snacks, and drinks scheduled to be served at the program's designated times;
  - b. (2) the opt out ability is not available for specific meals or days based on menu options;
  - c. (3) if a child requests specific foods being served to other children, but the parent has opted out, the operator shall not serve supplemental food; and



- d. (4) If the child's parent has opted out but does not provide all meals and snacks for the child, the operator shall replace the missing meal or snack as if the child's parent or guardian had not opted out of the supplemental food program.
- d. The food required by special diets for medical, religious or cultural reasons, or parental preferences, may be provided by the operator or may be brought to the program by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the program and written instructions must be provided by the child's parent, health care professional or a licensed dietitian/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the program.
- e. Children's special diets or food allergies shall be posted in the food preparation area and in the child's eating area.
- f. Food that does not meet the nutritional requirements specified in this Rule, such as cookies, chips, donuts; etc. shall be available only for special occasions such as holidays, birthdays and other celebrations.
- g. The operator, additional caregivers, and substitute providers shall role model appropriate eating behaviors by consuming only food or beverages that meet the nutritional requirements specified in Paragraph (a) of this Rule in the presence of children in care.
- h. Meals and snacks shall be planned according to the number of hours a child is in care. For children ages 15 months and older a meal or snack must be provided at least every four hours. These Rules shall apply in all situations except during sleeping hours and nighttime care:

Hours Child is in Care	Age of Child	Snack and Meal Requirement
At least 2 hours but less than 4 hours	Preschool-age children	1 snack, unless child is present during the time a meal is being served
Any hours in care	School-age children	1 snack, unless child is present during the time a meal is being served
At least 4 hours but less than 6 hours	All Children	1 meal equal to 1/3 of the child's daily food needs
At least 6 hours but less than 12 hours	All Children	2 meals and 1 snack OR 2 snacks and 1 meal equal to 1/2 of the child's daily food needs
More than 12 hours	All Children	2 snacks and 2 meals equal to 2/3 of the child's daily food needs
Second Shift (approximately 3:00 p.m. to 11:00 p.m.)	All Children	1 meal

- i. The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding plan for the child. This plan shall be followed at the home. This plan shall include the child's name, be signed by the parent or health care professional, and be dated when received by the operator. Each infant's plan shall be modified in consultation with the child's parent or health care professional to reflect changes in the child's needs as he or she develops. The feeding plans for each infant shall include the type and amount of milk, formula and food, the frequency of feedings and be available for reference by the operator.
- j. Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers are provided that include seating and an electrical outlet, in a place other than a bathroom, that is shielded from view by staff and the public, which may be used by mothers while they are breastfeeding or expressing milk.

- k. Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed. The feeding chair or other seating apparatus shall be disassembled for cleaning purposes.
- l. Breast milk, formula and other bottled beverages sent from home shall be fully prepared, dated, and labeled with individual child names. All beverages shall be returned to the child's parent or discarded at the end of each day.
- m. Frozen breast milk that is sent from home may be stored frozen for up to seven days. Frozen breast milk shall be labeled with the date received, date thawed for use and individual child name. Once thawed, the breast milk shall be refrigerated for no more than 24 hours. Thawed breast milk shall not be refrozen. The thawed breast milk shall be returned to the child's parent or discarded at the end of each day.
- n. Any formula which is prepared by the operator shall be prepared according to the instructions on the formula package or label, or according to written instructions from the child's health care professional.
- o. Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietitian/nutritionist.
- p. Each infant shall be served only formula, breast milk and bottles labeled with their individual name.
- q. Drinking water must be freely available and offered to children on a frequent basis. Individual drinking utensils shall be provided by the parent or operator.
- r. When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which have undergone an equivalent process to pasteurization shall be used.
- s. The operator will provide only the following beverages:
  - 1. breast milk, as specified in Paragraph (k) of this Rule;
  - 2. formula;
  - 3. water;
  - 4. unflavored whole milk, for children ages 12-23 months;
  - 5. unflavored skim or low-fat milk for children 24 months through five years;
  - 6. unflavored skim milk, unflavored low-fat milk, or flavored skim milk for children six years and older; or
  - 7. 100 percent fruit juice limited to 6 ounces per day.

**10A CAR 09 .1707 BUILDING REQUIREMENTS**

The applicant shall ensure that the family child care home complies with the following requirements:

- a. all children are kept on the ground level with an exit at grade;
- b. all homes are equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated, and one battery operated smoke detector located next to each other;
- c. all homes are provided with at least one five pound 2-A: 10-B: C type extinguisher for every 2,500 square feet of floor area;
- d. heating appliances shall be installed and maintained according to the NC Building code;
- e. all indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees;
- f. pipes or radiators that are hot enough to be capable of burning children and are accessible to the children are covered or insulated; and

- g. children are cared for in space designated as the caregiving area on a floor plan provided by the operator to the Division as specified in 10A CAR 09 .1709. Changes to the designated caregiving space shall be submitted to the Division 30 days prior to the new space being used by children. For family child care homes licensed prior to October 1, 2017, the floor plan showing designated caregiving space shall be submitted to the Division by November 30, 2017 or the next annual inspection, whichever is sooner. For family child care homes licensed after October 1, 2017, the floor plan showing designated caregiving space shall be submitted to the Division prior to licensure.

**10A CAR 09 .1708 PRE-LICENSING REQUIREMENTS FOR FAMILY CHILD CARE HOMES**

- a. The prospective operator of the family child care home shall complete the pre-licensing workshop provided by the Division prior to the Division issuing an initial license. The Division shall provide workshops for new family child care home applicants. Prospective licensees shall obtain, complete, and submit the pre-licensing registration form to the Division. The pre-licensing registration form contains demographic information and workshop location preferences. A schedule of these workshops and the pre-licensing registration form may be obtained from the Division. After completing the pre-licensing workshop, the prospective family child care home operator shall submit an application for a family child care home license and all supporting documentation as specified in 10A CAR 09 .1702.

**10A CAR 09 .1709 INSPECTIONS**

- a. To ensure compliance with G.S. 110, Article 7 and this Chapter, inspections shall be conducted follows:
  - 1. The Division shall conduct at least one announced visit prior to the initial issuance of license.
  - 2. The Division shall make at least one unannounced visit annually to ensure compliance with the licensure statutes and rules.
  - 3. The Division shall make at least one unannounced visit when the Division receives a complaint alleging a violation of licensure statutes or rules, or if the Division has cause to believe an emergency exists at the facility.
- b. After initial issuance of the license the Division shall inspect additional caregiving space specified in Rule .1708 of this Section. The Division may only inspect the entire premises of the family child care home as follows:
  - 3. Prior to issuance of the initial license;
  - 4. If the Division has cause to believe an emergency exists at the facility in accordance with G.S. 110- 105(a); 3.
  - 5. During an unannounced visit when the Division receives a complaint alleging a violation of licensure statute or rules in accordance with G.S. 110-105(a);
  - 6. During an unannounced visit when the Division receives a complaint alleging possible child maltreatment in accordance with G.S. 110-105(a);
  - 7. When there is evidence that children are being cared for in an undesignated space in accordance with G.S. 110-105(a1); or
  - 8. When the Division has cause to believe conditions in undesignated spaces pose a risk to the health, safety, or well-being of children in care in accordance with G.S. 110-105(a1) such as hear a child cry in an undesignated space or observing a child going into an undesignated space.

**10A CAR 09 .1710 PARENTAL ACCESS TO THE FAMILY CHILD CARE HOME**

- a. The family child care home operator shall not knowingly permit a person on the premises of a family child care home who has been convicted of a "reportable conviction" as defined in G.S. 14-208.6(4).
- b. The parent of a child enrolled in a family child care home shall be allowed access to the home during its operating hours for the purposes of contacting the child or evaluating caregiving space at the home and the care provided by the operator for the child. The parent shall notify the operator of his or her presence upon entering the premises.
- c. Parents subject to court orders related to custody of a child enrolled in a family child care home shall only be allowed access to the home in accordance with the court order.

**10A CAR 09 .1711 SUPERVISION OF CHILDREN IN A FAMILY CHILD CARE HOME**

- a. Children shall be adequately supervised at all times in a family child care home. "Adequate supervision" shall mean that:
  - 1. For pre-school age children, the family child care home operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear and see the children at all times and render immediate assistance;
  - 2. For school-age children, the operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear or see the children at all times and render immediate assistance;
  - 3. The operator shall interact with the children while moving about the indoor or outdoor area;
  - 4. For children of all ages:
    - a. the operator shall know where each child is located and be aware of children's activities at all times;
    - b. the operator shall provide supervision according to the individual age, needs, and capabilities of each child;
    - c. all of the conditions in this Paragraph shall apply except when emergencies necessitate that adequate supervision is impossible. Written documentation of emergencies stating the date,
    - d. for children who are sleeping or napping, the operator shall not be required to visually supervise them but shall be able to hear and respond without delay to them. Children shall not sleep or nap in a room with a closed door between the children and the operator. The operator shall be on the same level of the home where children are sleeping or napping.
- b. Nothing contained in this Rule shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.

**10A CAR 09 .1712 WRITTEN PLAN OF CARE**

- a. Each family child care home operator (operator or operators) who intends to complete routine tasks while children are in care shall develop and adopt a written plan of care for completing routine tasks. For purposes of this Rule, routine tasks include running errands, meeting personal and family demands, attending classes, and attending medical appointments.

- b. Operators who complete routine tasks with enrolled children shall limit these tasks to no more than two hours per week.
- c. Children shall not attend classes or medical appointments, with the family child care home operator, as described in Paragraph (a) of this Rule.
- d. Operators who attend classes, medical appointments, or who must complete routine tasks in excess of two hours per week, shall ensure that a qualified additional caregiver or substitute provider who meets the requirements of 10A CAR 09 .1729, cares for enrolled children during these times.
- e. The written plan of care shall:
  - 1. specify times for completing routine tasks and include those times on the written schedule;
  - 2. specify the names of any individuals, such as additional caregivers or substitute providers, who will be responsible for the care of children when the operator is attending to routine tasks;
  - 3. specify how the operator shall maintain compliance with transportation requirements specified in 10A CAR 09 .1723 if children are transported;
  - 4. specify how parents will be notified when children accompany the operator off premises for routine tasks not specified on the written schedule;
  - 5. specify any other steps the operator shall take to ensure routine tasks will not interfere with the care of children; and
  - 6. be provided and explained to parents of children in care on or before the first day the child attends the home. Parents shall sign a statement acknowledging the receipt and explanation of the plan. Parents shall also give written permission for their child to be transported by the operator for specific routine tasks that are included on the written schedule. The acknowledgment and written parental permission shall be retained in the child's record as long as the child is enrolled at the home and a copy of each document shall be maintained on file for review by the Division.
- f. If the operator amends the written plan, the operator shall give written notice of the amendment to parents of all enrolled children at least 30 days before the amended plan is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's records as long as the child is enrolled in the home and a copy shall be maintained on file for review by the Division.

#### **10A CAR 09 .1713 EMERGENCY MEDICAL CARE**

The family child care home operator (operator) shall have a written plan that sets forth the steps to follow in the event of a child medical emergency. This plan shall give the procedures to be followed to ensure that any child who becomes ill or is injured and requires medical attention while in care receives appropriate medical attention. The operator shall be responsible for:

- a. ensuring appropriate medical care is given, and determining which of the following is needed:
  - 1. First Aid for an injury or illness needing only minimal attention; or
  - 2. calling 911 in accordance with CPR or First Aid training recommendations.
- b. ensuring that the signed authorization described in 10A CAR 09 .1721(a)(3) is taken with the ill or injured child to the medical facility;
- c. notifying a child's parents or emergency contact person about the illness or injury and where the child has been taken for treatment; and
- d. obtaining substitute providers, if needed, to maintain adequate supervision of children who remain in care. This plan shall be reviewed with all additional caregivers and substitute providers prior to caring for children and whenever the plan is revised. The plan shall be available for review by the Division during the Family Child Care Home's operating hours.

## 10A CAR 09 .1714 EMERGENCY PREPAREDNESS AND RESPONSE

- a. For purposes of this Rule, the Emergency Preparedness and Response in Child Care is a training developed by the Division of Public Health for child care operators and providers on creating an Emergency Preparedness and Response Plan and practicing, responding to, and recovering from emergencies in child care facilities.
- b. Existing family child care home operators (operator or operators) shall complete the Emergency Preparedness and Response in Child Care training. Within one year of the effective date of a new license, the operator of a new family child care home shall have completed the Emergency Preparedness and Response in Child Care training. When the trained staff member leaves employment, the center shall ensure that another staff member completes the required training within four months of the vacancy. Documentation of completion of the training shall be maintained in the operator's personnel file.
- c. Upon completion of the Emergency Preparedness and Response in Child Care training, the operator shall develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care facility will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disaster, or a dangerous person in the vicinity, to ensure the safety and protection of the children and additional caregivers. This Plan shall be on a template provided by the Division available at <https://rmp.nc.gov/portal/#>, completed within four months of completion of the Emergency Preparedness and Response in Child Care training, and available for review.
- d. The Emergency Preparedness and Response Plan shall include the following:
  - a. (1) written procedures for accounting for all in attendance, including:
    - i. (A) the location of the children, staff, volunteer and visitor attendance lists; and
    - ii. (B) the name of the person(s) responsible for bringing the children, staff, volunteer and visitor attendance lists in the event of an emergency.
  - b. (2) a description for how and when children shall be transported;
  - c. (3) methods for communicating with parents and emergency personnel or law enforcement;
  - d. (4) a description of how children's nutritional and health needs will be met;
  - e. (5) the relocation and reunification process;
  - f. (6) emergency telephone numbers;
  - g. (7) evacuation diagrams showing how the operator, family members, children and any other individuals who may be present will evacuate during an emergency;
  - h. (8) the date of the last revision of the plan;
  - i. (9) specific considerations for non-mobile children and children with special needs; and
  - j. (10) the location of the Ready to Go File. A Ready to Go File means a collection of information on children, additional caregivers and the facility, to utilize, if an evacuation occurs. The file shall include a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick-up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and additional caregiver, additional caregiver contact information, Incident Report forms, an area map, and emergency telephone numbers.
- e. The operator shall review the Emergency Preparedness and Response Plan annually, or when information in the plan changes, to ensure all information is current.
- f. The operator shall review the Family Child Care Home's Emergency Preparedness and Response Plan with additional caregivers prior to the individual caring for children and on an annual basis.

- g. All substitute providers and volunteers who provide care to children shall be informed of the Emergency Preparedness and Response Plan and its location. Documentation of this notice shall be maintained in the individual personnel files.

**10A CAR 09 .1715 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .1716 FAILURE TO MAINTAIN REQUIREMENTS**

If the Division determines that a family child care home operator (operator) fails to maintain compliance with the requirements for licensure, the Division may establish a time period to allow the operator to achieve compliance or recommend issuance of an administrative action and civil penalty in accordance with 10A CAR 09 .2200.

**10A CAR 09 .1717 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .1718 REQUIREMENTS FOR DAILY OPERATIONS**

- a. The family child care home operator (operator or operators) shall provide the following on a daily basis for all children in care:
1. Developmentally appropriate equipment and materials for a variety of outdoor activities that allow for vigorous play, large and small muscle development, and social, emotional, and intellectual development. For purposes of this Rule "vigorous" means done with force and energy. Each child shall have the opportunity for a minimum of one hour of outdoor play each day that weather conditions permit. The operator shall provide space and time for vigorous indoor activities when children cannot play outdoors;
  2. Individual sleep requirements for infants aged 12 months or younger shall be provided for as specified in 10A CAR 09 .1724(a)(2). A supply of clean linens must be on hand so that linens can be changed whenever they become soiled or wet. Linens shall be changed weekly or whenever they become soiled or wet;
  3. A safe sleep environment by ensuring that when a child is sleeping, or napping, bedding or other objects shall not be placed in a manner that covers the child's face;
  4. A separate area that can be supervised pursuant to 10A CAR 09 .1720(a) for children who become ill to the extent that they can no longer participate in group activities. Parents shall be notified if their child becomes too sick to remain in care;
  5. The opportunity each day for each child under the age of 12 months for supervised play while awake and alert while positioned on his or her stomach;
  6. Developmentally appropriate activities as planned on a written schedule and activity plan. The schedule and activity plan may be combined as one document. Materials or equipment shall be available indoors and outdoors to support the activities listed on the written schedule and activity plan;
  7. A written schedule that shall:
    - i. Show blocks of time assigned to types of activities and include periods of time for both active play and quiet play or rest;
    - ii. Show times and activities that are developmentally appropriate for the ages of children in care;
    - iii. Reflect daily opportunities for both free choice and guided activities;
    - iv. Include a minimum of one hour of outdoor play throughout the day, if weather conditions permit;
    - v. Include a daily gross motor activity that may occur indoors or outdoors; and

- vi. For children under two years old, interspersed among the daily events shall be individualized caregiving routines such as eating, napping, and toileting;
- 8. A written activity plan that shall:
  - i. Include activities intended to stimulate the following developmental domains, in accordance with North Carolina Foundations for Early Learning and Development, available online at [http://ncchildcare.nc.gov/providers/pv\\_foundations.asp](http://ncchildcare.nc.gov/providers/pv_foundations.asp):
    - a. emotional and social development;
    - b. health and physical development;
    - c. Approaches to play and learning;
    - d. language development and communication; and
    - e. cognitive development.
  - ii. Identify activities that allow children to choose to participate with the whole group, part of the group, or independent of the group;
  - iii. Reflect that children have at least four different activities daily, at least one of which is outdoors, if weather conditions permit, as specified in C.C. 110B-91(14) as follows:
    - a. art and other creative play;
    - b. children's books;
    - c. blocks and block building;
    - d. manipulatives; and
    - e. family living and dramatic play.
  - iv. Provide materials and opportunities at least weekly, indoors or outdoors, for the following:
    - a. music and rhythm;
    - b. science and nature; and
    - c. sand and water play.
- 9. A clean and open area that allows freedom of movement shall be available, both indoors and outdoors; and
- 10. Operators who provide care to school-age children shall provide a balance of activities appropriate to the age, needs and interests of the school-age children. (b)
- b. When screen time is provided on any electronic media device with a visual display, it shall be:
  - 1. offered to stimulate a developmental domain in accordance with the North Carolina Foundations for Early Learning and Development as referenced in this Section;
  - 2. limited to a maximum of 30 minutes per day and no more than a total of two and a half hours per week per child; and
  - 3. documented on a cumulative log or activity plan and shall be available for review by the Division.
- c. (c) Screen time is prohibited for children under the age of three years. The operator shall offer alternate activities for children under the age of three years.

**10A CAR 09 .1719 REQUIREMENTS FOR A SAFE INDOOR/OUTDOOR ENVIRONMENT**

- a. The operator of a family child care home (operator) shall provide a physically safe and healthy indoor and outdoor environment that meets the developmental needs of children in care, including but not limited to the following:
  - 1. keep all areas used by the children, both indoors and outdoors, clean and orderly and free of items that are potentially hazardous to children. Potentially hazardous items include power tools, nails, chemicals, propane stoves, lawn mowers, and gasoline or kerosene,



whether or not intended for use by children, shall be stored in locked areas, removed from the premises, or otherwise inaccessible to children. This includes the removal of items that a child can swallow. In addition, loose nails or screws and splinters shall be removed on inside and outside equipment;

2. empty firearms of ammunition and keep both in separate, locked storage;
3. keep all materials used for starting fires, such as matches, lighters, and accelerants in locked storage;
4. store all combustible materials that may create a fire hazard according to the instructions on the product label;
5. medications including prescription and non-prescription items shall be stored in a locked cabinet or other locked container. Designated emergency medications shall be stored out of reach of children at least five feet high but are not required to be in locked storage. For purposes of this Rule, designated emergency medications are those that are used or needed for the immediate recovery from a life-threatening event and include Glucagon, epinephrine auto-injector, diazepam rectal installation and albuterol;
6. keep hazardous cleaning supplies and other items that might be poisonous, e.g., toxic plants, out of reach or in locked storage when children are in care;
7. keep all corrosive agents, pesticides, bleaches, detergents, cleansers, polishes, any product that is under pressure in an aerosol dispenser, and any substance which may be hazardous to a child if ingested, inhaled, or handled shall be kept in its original container or in another labeled container, used according to the manufacturer's instructions, and stored in a locked area when not in use. Locked areas shall include those that are unlocked with a combination, electronic, or magnetic device, key, or equivalent locking device. These unlocking devices shall be kept out of the reach of a child and shall not be stored in the lock. Toxic substances shall be stored below or separate from medications and food. Any product not listed in this Paragraph of this Rule that is labeled "keep out of reach of children" without any other warnings shall be kept inaccessible to children when not in use but is not required to be kept in locked storage. The product shall be considered inaccessible to children when stored on a shelf or in an unlocked cabinet that is mounted a minimum vertical distance of five feet above the finished floor;
8. ensure potential biocontaminants are stored in locked areas, or removed from the premises or otherwise inaccessible to children, or disposed of in a covered, plastic-lined receptacle;
9. keep First Aid supplies in a place accessible to the operator;
10. keep tobacco products in locked storage when children are in care. Children shall be in a smoke free and tobacco free environment. The operator and staff shall not smoke or use any product containing, made or derived from tobacco, including cigarettes, e-cigarettes, cigars, little cigars, smokeless tobacco, and any device used to inhale or ingest tobacco products at any time during operating hours on the premises of the family child care home, on vehicles used to transport children, or during any off premise activities;
11. notify the parent of each child enrolled in the facility, in writing, of the smoking and tobacco restriction;
12. have a working telephone within the family child care home. A telephone located in an area of the family child care home that is sometimes locked during the time the children are present shall not be the only phone available during operating hours. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be posted in a location visible in the home;
13. have access to a means of transportation that is available for emergency situations;
14. have a First Aid information sheet posted in a place for quick referral by staff members. The information sheet shall include First Aid guidance regarding burns, scalds, fractures,

sprains, head injuries, poisons, skin wounds, stings and bites. A child care operator may request a First Aid information sheet from the North Carolina Child Care Health and Safety Resource Center at 1-800-367-2229;

15. conduct a monthly fire drill;
  16. conduct a "shelter-in-place drill" or "lockdown drill" as defined in 10A CAR 09 .0102 every three months and records shall be maintained as required by 10A CAR 09 .0302(f)(8);
  17. check the indoor and outdoor environment daily for debris, vandalism, broken equipment and animal waste. The operator shall keep all areas used by the children, indoors and outdoors, clean and orderly and free of items which are potentially hazardous to children. This includes the removal of items that a child can swallow and use of outdoor play equipment that is too hot to touch. In addition, loose nails or screws and splinters shall be removed on inside and outside equipment;
  18. not have plastic bags, toys, and toy parts small enough to be swallowed accessible to children under three years of age. This includes materials that can be easily torn apart such as foam rubber and Styrofoam, except that Styrofoam plates may be used for food service and larger pieces of foam rubber may be used for supervised art activities;
  19. ensure that jump ropes and rubber bands are not accessible to children under five years of age without adult supervision. Balloons shall be prohibited for children of all ages;
  20. teacher-made and home-made equipment and materials may be used if they are safe and functional. Materials and equipment that are accessible to children shall not be coated or treated with, nor shall they contain, toxic materials such as creosote, pentachlorophenol, tributyl tin oxide, dislodgeable arsenic and any finishes which contain pesticides;
  21. ensure the equipment and toys are in good repair and are developmentally appropriate for the children in care;
  22. ensure that all stationary outdoor equipment is anchored and is not installed over concrete or asphalt. Footings that anchor the equipment shall not be exposed;
  23. ensure that any openings in equipment, steps, decks, and handrails shall be smaller than 3½ inches or greater than 9 inches to prevent entrapment;
  24. ensure that all commercially manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer;
  25. ensure that a shaded area is available to children in the outdoor learning environment. The shade may be provided by a building, awnings, trees, or other methods;
  26. mount electric fans out of the reach of children or have a mesh guard on each fan;
  27. cover all electrical outlets not in use and remove cracked, or frayed cords in occupied outlets;
  28. ensure that, for appliances with heating elements, such as bottle warmers, crock pots, irons, coffee pots, or curling irons, neither the appliance nor any cord, is accessible to children;
  29. indoor and outdoor stairs with more than two steps that are used by the children shall be railed. Indoor stairs with more than two steps shall be made inaccessible to children in care who are two years old or younger; and
- b. When animals are on the premises, the following shall apply:
1. all household pets shall be vaccinated with up-to-date vaccinations as required by North Carolina law and local ordinances. Rabies vaccinations are required for cats and dogs;
  2. animal cages shall be kept free of animal waste; and
  3. prior to enrollment of children in a family child care home, and before new animals come into the family child care home, the family child care home operator shall obtain each parent's signature on a form acknowledging the type of animal located on the premises and

where the animal will be kept during operating hours. This documentation shall be maintained in each child's file.

#### **10A CAR 09 .1720 MEDICATION REQUIREMENTS**

- a. The family child care home operator may provide care for a mildly sick infant or child older than two months who has a Fahrenheit temperature less than 101 degrees and for infants younger than two months who have a Fahrenheit temperature of less than 100.4 any method including axillary or orally, and who remains capable of participating in routine group activities; so long as the child does not have any of the following:
  1. more than two stools above the child's normal pattern and diarrhea is not contained by a diaper or when toilet-trained children are having accidents;
  2. two or more episodes of vomiting within a 12-hour period;
  3. lice, exclusion shall begin immediately upon identification until completion of first treatment;
  4. scabies;
  5. known chicken pox or a rash suggestive of chicken pox;
  6. tuberculosis, until a health professional provides a written statement that the child is not infectious;
  7. strep throat, until 12 hours after antibiotic treatment has started and no fever is present;
  8. pertussis, until five days after appropriate antibiotic treatment;
  9. hepatitis A virus infection, until one week after onset of illness or jaundice;
  10. impetigo, exclusion may begin at the end of the program day until treatment has started;
  11. a physician's or other health professionals written order that the child be separated from other children; or
  12. exclusion for symptoms not included in this list shall be required if the symptoms prevent the child from participating comfortably in activities as determined by staff members of the program or the symptoms result in a need for care that is greater than the staff members can provide without compromising the health and safety of other children.
- b. (b) The following provisions apply to the administration of medication in family child care homes:
  1. No prescription or over-the-counter medication and no topical, non-medical ointment, repellent, lotion, cream, fluoridated toothpaste or powder shall be administered to any child:
    - i. without written authorization from the child's parent;
    - ii. without written instructions from the child's parent, physician or other health professional;
    - iii. in any manner not authorized by the child's parent, physician or other health professional;
    - iv. after its expiration date;
    - v. for non-medical reasons, such as to induce sleep; or
    - vi. with a known allergy to the medication.
  2. Prescribed medications:
    - i. shall be stored in the original containers in which they were dispensed with the pharmacy labels;
    - ii. if pharmaceutical samples, shall be stored in the manufacturer's original packaging, shall be labeled with the child's name, and shall be accompanied by written instructions specifying:
      1. the child's name;
      2. the names of the medication;

3. the amount and frequency of dosage;
  4. the signature of the prescribing physician or other health professional;
  5. the date the instructions were signed by the physician or other health professional; and
  6. shall be administered according to the prescription, using amount and frequency of dosage specified on the label; and
- iii. shall be administered only to the child for whom they were prescribed.
3. (3) A parent's written authorization for the administration of a prescription medication described in Paragraph (b)(2) of this Rule shall be valid for the length of time the medication is prescribed to be taken.
  4. (4) Over-the-counter medications, such as cough syrup, decongestant, acetaminophen, ibuprofen, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be stored in the manufacturer's original packaging on which the child's name is written or labeled and shall be accompanied by written instructions specifying:
    - i. the child's name;
    - ii. the names of the authorized over-the-counter medication;
    - iii. the amount and frequency of the dosages, which shall not exceed the amount and frequency of the dosages on the manufacturer's label;
    - iv. the signature of the parent, physician or other health professional; and
    - v. the date the instructions were signed by the parent, physician or other health professional. The permission to administer over-the-counter medications is valid for up to 30 days at a time, except as allowed in Subparagraphs (b)(6), (7), (8), and (9) of this Rule. Over-the-counter medications shall not be administered on an "as needed" basis, other than as allowed in Subparagraphs (b)(6), (7), (8), and (9) of this Rule.
  5. When questions arise concerning whether any medication should be administered to a child, the caregiver may decline to administer the medication without signed, written dosage instructions from a licensed physician or authorized health professional.
  6. A parent may give a caregiver standing authorization for up to six months to administer prescription or over-the-counter medication to a child, when needed, for chronic medical conditions such as asthma, and for allergic reactions. The authorization shall be in writing and shall contain:
    - i. the child's name;
    - ii. the subject medical conditions or allergic reactions;
    - iii. the names of the authorized over-the-counter medications;
    - iv. the criteria for the administration of the medication;
    - v. the amount and frequency of the dosages;
    - vi. the manner in which the medication shall be administered;
    - vii. the signature of the parent;
    - viii. the date the authorization was signed by the parent; and
    - ix. the length of time the authorization is valid, if less than six months.
  7. A parent may give a caregiver standing authorization for up to 12 months to apply over-the-counter, topical ointments, topical teething ointment or gel, insect repellents, lotions, creams, fluoridated toothpaste, and powders, such as sunscreen, diapering creams, baby lotion, and baby powder, to a child, when needed. The authorization shall be in writing and shall contain:
    - i. the child's name;
    - ii. the names of the authorized ointments, repellents, lotions, creams, fluoridated toothpaste, and powders;

- iii. the criteria for the administration of the ointments, repellents, lotions, creams, fluoridated toothpaste, and powders;
  - iv. the manner in which the ointments, repellents, lotions, creams, fluoridated toothpaste, and powders shall be applied;
  - v. the signature of the parent;
  - vi. the date the authorization was signed by the parent; and
  - vii. the length of time the authorization is valid, if less than 12 months.
8. A parent may give a caregiver standing authorization to administer a single weight-appropriate dose of acetaminophen to a child in the event the child has a fever and a parent cannot be reached. The authorization shall be in writing and shall contain:
- i. the child's name;
  - ii. the signature of the parent;
  - iii. the date the authorization was signed by the parent;
  - iv. the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
9. A parent may give a caregiver standing authorization to administer an over-the counter medication as directed by the North Carolina State Health Director or designee, when there is a public health emergency as identified by the North Carolina State Health Director or designee. The authorization shall be in writing, may be valid for as long as the child is enrolled, and shall contain:
- i. the child's name;
  - ii. the signature of the parent;
  - iii. the date the authorization was signed by the parent; and
  - iv. the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
10. Pursuant to G.S. 110-102.1A, a caregiver may administer medication to a child without parental authorization in the event of an emergency medical condition when the child's parent is unavailable, and providing the medication is administered with the authorization and in accordance with instructions from a health care professional as defined in Rule .0102(21) of this Chapter.
11. A parent may withdraw written authorization for the administration of medications at any time in writing.
12. Any medication remaining after the course of treatment is completed, after authorization is withdrawn or after authorization has expired shall be returned to the child's parents. Any medication the parent fails to retrieve within 72 hours of completion of treatment, or withdrawal of authorization, shall be discarded.
13. Any time prescription or over-the-counter medication is administered by a caregiver to children receiving care, the following information shall be recorded:
- i. the child's name;
  - ii. the date medication given;
  - iii. the time medication given;
  - iv. the amount and type of medication given; and
  - v. the name and signature of the person administering the medication.

This information shall be noted on a medication permission slip, or on a separate form developed by the operator which includes the required information. This information shall be available for review by the Division during the time period the medication is being administered and for six months after the medication is administered. No documentation shall be required when items listed in Subparagraph (b)(7) of this Rule are applied to children.

14. if medication is administered in error, whether administering the wrong dosage, giving to the wrong child, or giving the incorrect type of medicine, the operator shall:
  - i. call 911 in accordance with CPR or First Aid training recommendations;
  - ii. contact the child's parent;
  - iii. observe the child; and
  - iv. document the medication error in writing, including:
    1. the child's name and date of birth;
    2. the type and dosage of medication administered;
    3. the name of the person who administered the medication;
    4. the date and time of the error;
    5. the signature of the operator and the parent;
    6. the actions taken by the operator following the error; and
    7. the actions that will be taken by the operator to prevent a future error. This documentation shall be maintained in the child's file.

This document shall be maintained in the child's file.

#### **10A CAR 09 .1721 REQUIREMENTS FOR RECORDS**

- a. The family child care home operator shall maintain the following health records for each enrolled child, including his or her own preschool child(ren):
  1. a copy of the child's health assessment as required by G.S. 110-91(1);
  2. a copy of the child's immunization record;
  3. an application for enrollment that includes information set forth in this Subparagraph of this Rule provided by the Division that is completed and signed by a child's parent, as defined in 10A CAR 09 .0102. The completed form shall be on file the first day the child attends. An operator may use any format, as long as the form includes the following information:
    - i. the child's full name and the name the child is to be called;
    - ii. the child's date of birth;
    - iii. any allergies and the symptoms and type of response required for allergic reactions;
    - iv. any health care needs or concerns, symptoms of and the type of response required for these health care needs or concerns;
    - v. fears or behavior characteristics that the child has;
    - vi. the names of individuals to whom the operator may release the child as authorized by the person who signs the application;
    - vii. the names and phone numbers of persons to be contacted in an emergency situation;
    - viii. the name and phone number of the child's physician; and
    - ix. authorization for the operator to seek emergency medical care in the parent's absence.
  4. For any child with health care needs such as allergies, asthma, or other chronic conditions that require specialized health services, a medical action plan shall be attached to the application. The medical action plan shall be completed by the child's parent or a health care professional and may include the following:
    - i. a list of the child's diagnosis or diagnoses including dietary, environmental, and activity considerations that are applicable;
    - ii. contact information for the health care professional(s);
    - iii. medications to be administered on a scheduled basis; and

- iv. medications to be administered on an emergency basis with symptoms, and instructions.

The medical action plan shall be updated on an annual basis. Sample medical action plans may be obtained from the Division.

- b. The family child care home operator and staff shall release a child only to an individual listed on the application.
- c. The information contained in Parts (a)(3)(A) through (a)(3)(J) and Subparagraph (a)(4) of this Rule, shall be accessible to caregiving staff during the time the child is in care at the family child care home.
- d. The family child care home operator and staff shall use the information provided on the application to ensure that individual child's needs are met during the time the child is in care.
- e. The family child care home operator shall complete and maintain other records that include:
  - a. documentation of the operator's Emergency Preparedness and Response Plan on a template provided by the Division of Emergency Management at <http://rmp.nc.gov/portal/#>;
  - b. documentation that monthly fire drills are practiced. The documentation shall include the date each drill is held, the time of day, the length of time taken to evacuate the home, and the operator's signature;
  - c. incident reports that are completed each time a child is injured or when a child receives medical treatment by a health care professional, community clinic, or local health department as a result of an incident occurring while the child is in care. The form shall contain the following information:
    - i. facility identifying information;
    - ii. date and time of the incident;
    - iii. witness to the incident;
    - iv. time the parent is notified of the incident and by who;
    - v. piece of equipment involved;
    - vi. cause of injury;
    - vii. type of injury;
    - viii. body part injured;
    - ix. where the child received medical treatment;
    - x. description of how and where the incident occurred, and pediatric First Aid received;
    - xi. steps taken to prevent reoccurrence;
    - xii. signature of staff member and date form completed; and
    - xiii. signature of parent and date. This report shall be signed by the person completing it and by the parent and maintained in the child's file. When medical treatment is required, or the report is suspected to have resulted from negligence, abuse or misconduct, a copy of the incident report shall be reported to a representative of the Division within seven calendar days after the incident.
    - xiv. A copy of the form can be obtained from the Division's;
  - d. an incident log that is filled out any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by the Division. This log shall be completed on a form supplied by the Division.
  - e. documentation that a monthly check for hazards on the outdoor play area is completed. This form shall be supplied by the Division and shall be maintained in the family child care home for review by the Division. The form shall include the following information:
    - i. Name of facility, time and date the form was completed;
    - ii. Signature of individual completing form;
    - iii. General inspection items;

- iv. Surfacing;
  - v. General hazard items; and
  - vi. Deterioration of equipment. For items on the checklist the operator has to check if pass or fail, if fail identify the problem and solution. A copy of the form can be obtained from the Division.;
- f. daily attendance records for all children in care, including the operator's own preschool children. The attendance record shall indicate the date and time of arrival and departure for each child; and
- g. documentation of lockdown or shelter-in-place drills giving the date each drill is held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill.
- f. Written records shall be maintained as follows in a family child care home:
- a. All children's records as required in this Section, except medication permission slips as required in Rule .1720(b) (13) of this Section, shall be kept on file as long as the child is enrolled and for one year from the date the child is no longer enrolled.
  - b. Records regarding administration of medications required by Rule .1720(b) (13) of this Section shall be maintained during the time period the medication is being administered and for six months after the medication is administered.
  - c. Additional caregiver and substitute provider records as required in this Section shall be maintained on file for as long as the individual is employed and for one year from the employee's last date of employment.
  - d. All program records, including documentation of operator qualifications, as required in this Section shall be maintained on file for as long as the license remains valid except as follows:

- i. A minimum of 30 days from the revision or replacement date:

Record	Rule
Daily Schedule	.1718(a)(6)
Activity Plan	.1718(a)(6)
Infant Feeding Plan	.1706(j)
Menu	.1706(b)
Allergy Posting	.1706(f)
SIDS Sleep Chart/Visual Check	.1724(a)(8)

- ii. A minimum of one year from the revision or replacement date:

Record	Rule
Attendance	.1721(e)(6)
Emergency Numbers	.1719(a) (14)
Safe Sleep Policy	.1724(c) and (d)
Written Plan of Care	.1712
Emergency Medical Care Plan	.1713
Emergency Preparedness and Response Plan	.1721(e)(1)
Field Trip/Transportation Permission	.1723(5)
List and Identifying Information for children being Transported	.1723(14)
Fire Drill Log	.1721(e)(2)
Lockdown or shelter-in-place Drill Log	.1721(e)(7)
Incident Log	.1721(e)(4)
Playground Inspections	.1721(e)(5)
Pet Vaccinations	.1721(b)(1)



Medication Error Log	.1721(14)
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- e. Well-water analysis, pool inspection and inspections for local ordinances as referenced in Rules .1730(j), .1725(a)(1), and .1702(b)(7), of this Section and G.S. 110-91 shall remain on file at the family child care home for as long as the license remains valid.
- f. Records may be maintained in a paper format or an electronic format, provided that all required signatures are preserved in a paper format, PDF, or other graphic format.
- g. All records required in this Chapter shall be available at the family child care home for review by the Division during the hours of operation listed on the child care license.

**10A CAR 09 .1722 PROHIBITED DISCIPLINE**

- a. No child shall be subjected to any form of corporal punishment by the family child care home operator, additional caregiver, substitute provider, or any other person in the home, whether or not these persons reside in the home as follows:
  - 1. No child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or spanking;
  - 2. No child shall ever be placed in a locked room, closet, or box, or be left alone in a room separated from staff;
  - 3. No discipline shall ever be delegated to another child;
  - 4. No food shall be withheld or given as a means of punishment or reward;
  - 5. No child shall ever be disciplined for toileting accidents;
  - 6. No child shall ever be disciplined for not sleeping during rest period;
  - 7. No child shall be disciplined by assigning chores that require contact with or use of hazardous materials, such as cleaning bathrooms or floors, or emptying diaper pails;
  - 8. Physical activity, such as running laps and doing push-ups, shall not be withheld or required as punishment;
  - 9. No child shall ever be yelled at, shamed, humiliated, frightened, threatened, or bullied; and
  - 10. No child shall be restrained as a form of discipline unless the child’s safety or the safety of others is at risk. For purposes of this Rule, “restraining” shall mean that a caregiver physically holds a child in a manner that restricts the child’s movement, for a minimum amount of time necessary to ensure a safe environment. Children shall not be restrained through the use of heavy objects, including a caregiver’s body, or any device such as straps, blankets, car seats, or cribs.
- b. Discipline practices shall be age and developmentally appropriate.

**10A CAR 09 .1723 TRANSPORTATION REQUIREMENTS**

To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:

- a. ensure that vehicles used to transport children are free of hazards such as but not limited to, torn upholstery that allows children to remove the interior padding, broken windows, holes in the floor or roof, or tire treads of less than 2/32 of an inch;
- b. ensure that vehicles used to transport children comply with all applicable State and federal laws and regulations;
- c. ensure that vehicles are insured for liability as required by State laws governing transportation of passengers pursuant to G.S. 20-279.21;

- d. ensure that vehicles used to transport children in snowy, icy, and other hazardous weather conditions are equipped with snow tires, or chains;
- e. have written permission from a parent to transport his or her child and notify the parent when and where the child is to be transported, and the name of the transportation provider. Parents may give standing permission, valid for up to 12 months, for transport of children to and from the home;
- f. ensure that all children are transferred to an individual who is indicated on the child's application for enrollment as specified in Rule .1721(a)(3) of this Section or as authorized by the parent;
- g. load and unload children from curbside or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards;
- h. ensure that all children regardless of age or location in the vehicle shall be restrained with an individual seat belt or child safety seat appropriate to the child's age or weight in accordance with G.S. 20-135.2A located at <http://www.buckleupnc.org/occupant-restraint-laws/seat-belt-law-summary/>. Only one person shall occupy each seat belt or child safety seat;
- i. be at least 21 years old, and have a valid driver's license of the type required under the North Carolina Motor Vehicle Law for the vehicle being driven, or comparable license from the state in which the driver resides, and no convictions of Driving While Impaired (DWI), or any other impaired driving offense, within the last three years;
- j. ensure that each child is seated in a manufacturer's designated area. No child shall ride in the load carrying area or floor of a vehicle;
- k. have a First Aid kit and fire extinguisher located in the vehicle used to transport children;
- l. never leave children in a vehicle unattended by an adult;
- m. have identifying information in the vehicle about each child being transported, including the child's name, photograph, emergency contact information, and a copy of the emergency medical care information form required by Rule .1721(a)(3) of this Section; and
- n. have a functioning cellular telephone or other functioning two-way voice communication device with them for use in an emergency. The transportation provider shall not use cellular telephones or other functioning two-way communication devices except in the case of an emergency and only when the vehicle is parked in a safe location; and
- o. conduct off-premise activities as follows:
  - 1. before the operator walks children off premises for play or outings, the parent of each child shall give written permission for the child to participate in such activities;
  - 2. parents may provide a written statement giving standing permission which may be valid for up to 12 months for participation in off premise activities that occur on a regular basis; and
  - 3. each time the children are taken off premises, the operator shall take identifying information about each child including the child's name, photograph, emergency contact information, a copy of the emergency medical care information form required by 10A CAR 09 .1721(a)(3) of this Section.

**10A CAR 09 .1724 SAFE SLEEP PRACTICES**

- a. Each operator licensed to care for infants aged 12 months or younger shall develop, adopt, and comply with a written safe sleep policy that:
  - a. specifies that the operator shall place infants aged 12 months or younger on their backs for sleeping, unless:
    - i. (A) for an infant aged six months or less, the operator receives a written waiver of this requirement from a health care professional; or
    - ii. for an infant older than six months, the operator receives a written waiver of this requirement from a health care professional, or a parent or a legal guardian;

- b. specifies that infants aged 12 months or younger shall be placed in a crib, bassinet or play pen with a firm padded surface when sleeping;
  - c. specifies no pillows, wedges or other positioners, pillow-like toys, blankets, toys, bumper pads, quilts, sheepskins, loose bedding, towels and washcloths, or other objects may be placed in a crib with a sleeping infant aged 12 months or younger;
  - d. specifies that children shall not be swaddled;
  - e. specifies that nothing shall be placed over the head or face of an infant aged 12 months or younger when the infant is laid down to sleep;
  - f. specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75°F;
  - g. specifies the operator shall visually check sleeping infants aged 12 months or younger at least every 15 minutes;
  - h. specifies how the operator shall document compliance with visually checking on sleeping infants aged 12 months or younger;
  - i. specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;
  - j. specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, mat, or cot;
  - k. specifies that infants aged 12 months or younger shall be prohibited from sleeping in sitting devices, including car safety seats, strollers, swings, and infant carriers. Infants that fall asleep in sitting devices shall be moved to a crib, bassinet, mat, or cot; and
  - l. specifies any other steps the operator shall take to provide a safe sleep environment for infants aged 12 months or younger.
- b. The operator shall post a copy of the safe sleep policy and poster about safe sleep practices in the infant room where it can be easily seen by parents and caregivers.
- c. A copy of the operator's safe sleep policy shall be given and explained to the parents of an infant aged 12 months or younger on or before the first day the infant attends the home. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain:
- a. the infant's name;
  - b. the date the infant first attended the home;
  - c. the date the operator's safe sleep policy was given and explained to the parent; and
  - d. the date the parent signed the acknowledgement.
- The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.
- d. If an operator amends a home's safe sleep policy, the operator shall give written notice of the amendment to the parents of all enrolled infants aged 12 months or younger at least 14 days before the amended policy is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.
- e. The operator shall place a child aged 12 months or younger on the child's back for sleeping, unless for a child aged 6 months or younger, the operator obtains a written waiver from a health care professional; or for a child older than 6 months, the operator obtains a written waiver from a health care professional or parent. Waivers shall include the following:
- i. the infant's name and birth date;
  - ii. be signed and dated by the infant's health care professional or parent;
  - iii. if a wedge is needed, specify why it is needed and how it should be used; and
  - iv. the infant's authorized sleep positions.
- The operator shall retain the waiver in the child's record as long as the child is enrolled at the home.
- f. Documents that verify staff member's compliance with visual checks on infants shall be maintained for a minimum of one month.

- g. For each infant with a waiver on file at the home as specified in Paragraph (e) of this Rule, a notice shall be posted for quick reference near the infant's crib, bassinet, play pen, or mat that shall include:
  - a. (1) the infant's name;
  - b. (2) the infant's authorized sleep position; and
  - c. (3) the location of the signed waiver. No confidential medical information, including an infant's medical diagnosis, shall be shown on the notice.

**10A CAR 09 .1725 SANITATION REQUIREMENTS FOR FAMILY CHILD CARE HOMES**

- a. To assure the health of children through proper sanitation, the family child care home operator (operator) shall:
  - a. collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services every two years. Results of the analysis shall be on file in the home;
  - b. wash his or her hands prior to caring for children each day;
  - c. ensure that each child's hands are washed upon arrival at the home each day;
  - d. have sanitary toilet, diaper changing and hand washing facilities as follows:
    - i. diaper changing areas shall be separate from food preparation areas;
    - ii. toileting areas shall have toilet tissue available at all times;
    - iii. all toilet fixtures shall be cleanable and in good repair;
    - iv. handwashing areas shall have soap and paper towels or other drying devices available at all times;
    - v. diapering surfaces shall be smooth, intact, nonabsorbent and cleanable; and
    - vi. potty chairs and diapering surfaces shall be cleaned after each use.
  - e. use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet. The operator shall:
    - i. gather all supplies before placing a child on the diapering surface;
    - ii. wash his or her hands before, as well as after, diapering each child;
    - iii. ensure the child's hands are washed after diapering the child; and
    - iv. place soiled diapers in a covered, leak proof container which is emptied and cleaned daily;
  - f. use sanitary procedures when preparing and serving food. The operator shall:
    - i. wash his or her hands before and after handling food and feeding the children; and
    - ii. ensure the child's hands are washed before and after the child is fed;
  - g. wash his or her hands, and ensure the child's hands are washed, after toileting or handling bodily fluids;
  - h. handwashing procedures shall include:
    - i. using liquid soap and water;
    - ii. rubbing hands vigorously with soap and water for 15 seconds;
    - iii. washing all surfaces of the hands, to include the backs of hands, palms, wrists, under fingernails and between fingers;
    - iv. rinsing well for 10 seconds;
    - v. drying hands with a paper towel or other hand drying device; and
    - vi. turning off faucet with a paper towel or other method without recontaminating hands;

- i. refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature;
  - j. have a house that is free of rodents;
  - k. screen all windows and doors used for ventilation; and
  - l. store garbage in waterproof containers with tight fitting covers.
- b. If reusable, cloth diapers are used, place soiled cloth diaper, after disposing of feces in toilet without rinsing, in a tightly closed plastic bag or other equivalent container approved by the Division, stored out of reach of children and sent daily to the child's home to be laundered or to a laundry service.
  - c. The operator shall not force children to use the toilet and the operator shall consider the developmental readiness of each child when toilet training. The operator shall provide assistance to each child to ensure proper hygiene, as needed.
  - d. The operator shall ensure that clean clothes are available in the event that a child's clothes become wet or soiled. The change of clothing may be provided by the operator or by the child's parents.

**10A CAR 09 .1726 PREVENTION OF SHAKEN BABY SYNDROME AND ABUSIVE HEAD TRAUMA**

- a. The operator of a family child care home licensed to care for children up to five years of age shall develop and adopt policies to assist staff in preventing shaken baby syndrome and abusive head trauma. For purposes of this Rule, "staff" includes the operator, additional caregivers, substitute providers, and uncompensated providers. The policy shall include:
  - 1. How to recognize, respond to, and report the signs and symptoms of shaken baby syndrome and abusive head trauma. Signs and symptoms include: irritability, difficulty staying awake, difficulty breathing, inability to lift the head, seizures, lack of appetite, vomiting, and bruises;
  - 2. Strategies to assist staff in coping with a crying, fussing, or distraught child;
  - 3. Strategies to ensure staff members understand how to care for infants;
  - 4. Strategies to ensure staff understand the brain development of children up to five years of age;
  - 5. A list of prohibited behaviors that staff shall follow in order to care for children in a developmentally appropriate manner. Prohibited behaviors shall include, but not be limited to, shaking a child, tossing a child into the air or into a crib, chair, or care seat, and pushing a child into walls, doors, and furniture; and
  - 6. Resources to assist staff and families in preventing shaken baby syndrome and abusive head trauma.
- b. A copy of the policy shall be given and explained to the parents of children up to five years of age on or before the first day the child receives care at the home. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain the following:
  - 1. The child's name;
  - 2. The date the child first attended the home;
  - 3. The date the operator's policy was given and explained to the parent;
  - 4. The parent's name;
  - 5. The parent's signature; and
  - 6. The date the parent signed the acknowledgment.
- c. If an operator changes the policy at any time, the operator shall give written notice of the change to the child's parent 14 days prior to the implementation of the new policy and the parent shall sign

a statement that attests that a copy of the new policy was given to and discussed with him or her. The center shall obtain the parent's signature and this statement shall be kept in the child's file.

- d. The operator shall review the policy with staff prior to the individual providing care to children. The acknowledgement of this review shall contain the following:
  - 1. The individual's name;
  - 2. The date the operator's policy was given and explained to the individual;
  - 3. The individual's signature; and
  - 4. The date the individual signed the acknowledgment.

The operator shall retain the acknowledgement in the staff member's file.

- e. If an operator changes the policy at any time, the operator shall review the revised policy with staff 14 days prior to the implementation of the new policy. The individual shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the staff member's file.

#### **10A CAR 09 .1727 DISCIPLINE POLICY**

- a. The family child care home operator shall provide a written copy of and explain the operator's discipline practices to each child's parent at the time of enrollment.
- b. The operator shall obtain a statement signed and dated by the parent that attests that a copy of the written discipline policy was given to and discussed with him or her.
- c. That statement shall include the following:
  - a. the child's name;
  - b. the date of enrollment; and
  - c. if different, the date the parent signs the statement.

The signed, dated statement must be in the child's record and must remain on file as long as the child is enrolled.

- d. If an operator changes the discipline policy at any time, the operator must give written notice of such a change to the child's parent, guardian, or full-time custodian 14 days prior to the implementation of the new policy and the parent, guardian or full-time custodian must sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the child's file.

#### **10A CAR 09 .1728 OVERNIGHT CARE**

- a. A safe and comfortable bed, crib, or cot equipped with a firm waterproof mattress at least four inches thick and a fitted sheet shall be provided for each child who remains in the home after midnight. The top of bunk beds shall be used by school-age children only.
- b. A supply of clean linen must be on hand so that linens can be changed whenever they become soiled or wet. Linens shall be changed weekly or whenever they become soiled or wet.
- c. An operator licensed to care for children overnight may sleep during the nighttime hours when all the children are asleep, provided:
  - a. the operator and the children in care, excluding the operator's own children, are on ground level;
  - b. the operator can hear and respond to the children; and
  - c. a battery-operated smoke detector or an electrically operated (with a battery backup) smoke detector is located in each room where children are sleeping.

#### **10A CAR 09 .1729 ADDITIONAL CAREGIVER AND SUBSTITUTE PROVIDER QUALIFICATIONS**

- a. An individual who provides care for five hours or more in a week during planned absences of the family child care home operator shall:
  - a. be 21 years old;
  - b. have a high school diploma or GED;
  - c. have completed a First Aid and cardiopulmonary resuscitation (CPR) course as described in Rule .1708(b)(3) and (4) of this Section;
  - d. have completed a health questionnaire;
  - e. have proof of negative results of a tuberculosis test completed within 12 months prior to the first day of providing care;
  - f. have submitted criminal records check forms as required in Rule .2703 of this Chapter;
  - g. have documentation of annual on-going training as described in Rule .1703(d) of this Section after the first year of employment;
  - h. have completed ITS-SIDS training, if licensed to care for infants;
  - i. have completed Recognizing and Responding to Suspicions of Child Maltreatment training; and
  - j. have documentation that the operator reviewed requirements found in this Chapter, including the Emergency Preparedness and Response Plan, and in G.S. Chapter 110, Article 7.

While the individual provides care at a family child care home, copies of required information in Subparagraphs (1) through (10) of this Paragraph shall be on file in the home available for review by the Division.

- b. An individual who provides care for less than five hours in a week during planned absences of the operator shall be literate and meet all requirements listed in Paragraph (a) of this Rule, except the requirements for annual training and a high school diploma or GED.
- c. The operator shall conduct 16 hours of orientation with any caregivers, including substitute providers, and volunteers who are providing care prior to the individual caring for children. The orientation shall include an overview of the following topics, specifically focusing on the operation of the facility:
  - a. recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;
  - b. (2) review of the home's operational policies, including the written plan of care, safe sleep policy, transportation policy, identification of building and premises safety issues, the emergency medical care plan and the Emergency Preparedness and Response Plan;
  - c. (3) adequate supervision of children in accordance with Rule .1711(a) of this Section;
  - d. (4) information regarding prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
  - e. (5) prevention and control of infectious diseases, including immunization;
  - f. (6) firsthand observation of the home's daily operations;
  - g. (7) instruction regarding assigned duties;
  - h. (8) instruction in the maintenance of a safe and healthy environment;
  - i. (9) instruction in the administration of medication to children in accordance with Rule .1720(b) of this Section;
  - j. (10) review of the home's purposes and goals;
  - k. (11) review of G.S. 110, Article 7 and 10A CAR 09;
  - l. (12) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource;
  - m. (13) an explanation of the individual's obligation to cooperate with representatives of State and local government agencies during visits and investigations; and

- n. (14) prevention of and response to emergencies due to food and allergic reactions. The operator and individual providing care shall sign and date a statement that attests that this review was completed. This statement shall be kept on file in the home available for review by the Division.
- d. (d) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be 18 years old and submit criminal records check forms as required in Rule .2703(j) of this Chapter. The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service

**10A CAR 09 .1730 ACTIVITIES INVOLVING WATER**

- a. The requirements in this Rule apply to "aquatic activities" which are defined as activities that take place in a body of water such as swimming, swimming instruction, wading, and visits to water parks. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.
- b. Aquatic activities involving the following are prohibited:
  - 1. hot tubs;
  - 2. spas;
  - 3. saunas or steam rooms;
  - 4. portable wading pools; and
  - 5. natural bodies of water and other unfiltered, non-disinfected containments of water.
- c. When children enrolled in a family child care home participate in aquatic activities, there shall be at least one person who has a life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activity. Verification of the operator's completion of this course from an approved training organization shall be maintained in their personnel file in the family child care home.
- d. Children under the age of three shall not participate in aquatic activities except to the extent necessary to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).
- e. The family child care home operator shall be responsible for adequately supervising the aquatic activity for the duration of the activity. "Adequate supervision" means that the operator shall be able to hear, see, and respond to the children whether in or out of the water.
- f. Prior to children participating in aquatic activities, the operator shall develop policies that address the following:
  - 1. aquatic safety hazards;
  - 2. pool and aquatic activity area supervision, including restroom or changing room use;
  - 3. how discipline will be handled during aquatic activities;
  - 4. the operator's specific field trip and transportation policies; and
  - 5. that children shall be directed to exit the water during an emergency.
- g. Parents must provide written permission for participation in aquatic activities. The written permission shall include a statement that parents are aware of the operator's aquatic policies specified in Paragraph (f) of this Rule. The operator shall maintain copies of written parental permission in each child's file.
- h. Any outdoor swimming pool located on the family child care home premises shall be enclosed by a fence that is at least four feet high, separated from the remaining outdoor play area by that fence, and locked and inaccessible to children when not in use.
- i. Swimming pool safety rules shall be posted and visible to children and staff for any swimming pool located on the child care facility premises. These rules shall state:
  - 1. the location of a first-aid kit;



2. that only water toys are permitted;
  3. that children are not allowed to run or push one another;
  4. that swimming is allowed only when the operator is present; and
  5. that glass objects are not allowed.
- j. All swimming pools used by children in care shall meet the "Rules Governing Public Swimming Pools" in accordance with 15A NCAC 18A .2500 which are incorporated by reference, including subsequent amendments. A copy of these Rules can be found at <http://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> and is available at no charge.
- k. Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation are permitted.
- l. Boating, rafting, and canoeing activities are not permitted unless at a water park and age appropriate. Prior to participating in recreational activities conducted on the water, children shall wear an age or size appropriate personal floatation device approved by the United States Coast Guard. This personal floatation device shall be worn for the duration of the activity.

**10A CAR 09 .1731 ADDITIONAL HEALTH AND SAFETY TRAINING REQUIREMENTS**

**SECTION .1800 STAFF/CHILD INTERACTIONS AND BEHAVIOR  
MANAGEMENT**

**10A CAR 09 .1801 SUPERVISION IN CHILD CARE CENTERS**

- a. The Children shall be adequately supervised at all times in child care centers. Adequate supervision shall mean that:
- a. staff must be positioned in the indoor and outdoor environment to maximize their ability to hear or see the children at all times and render assistance;
  - b. staff must interact with the children while moving about the indoor or outdoor area;
  - c. staff must know where each child is located and be aware of the children's activities at all times;
  - d. staff must provide supervision appropriate to the individual age, needs, and capabilities of each child; and
  - e. staff must be able to see and hear children aged birth to five years old while the children are eating.

All of the conditions in this Paragraph shall apply except when emergencies necessitate that adequate supervision is impossible. Documentation of emergencies shall be maintained and available for review by Division representatives upon request.

- b. For groups of children aged two years or older, the staff/child ratio during nap time shall comply with the requirements of this Chapter if at least one person remains in the room, all children are visible to that person, and the total number of required staff are on the premises and within calling distance of the rooms occupied by children.

**10A CAR 09 .1802 STAFF/CHILD INTERACTIONS**

Staff shall interact with children in positive ways by helping them feel welcome and comfortable, treating them with respect, listening to what they say, responding to them with acceptance and appreciation, and participating in activities with the children. For example, staff shall:

- a. make eye contact when speaking to a child;
- b. engage children in conversation to share experiences, ideas, and opinions;
- c. help children develop problem-solving skills; and
- d. facilitate learning by providing positive reinforcement, encouraging efforts, and recognizing accomplishments.

**10A CAR 09 .1803 PROHIBITED DISCIPLINE IN CHILD CARE CENTERS**

- a. No child shall be subjected to any form of corporal punishment by the owner, operator, director, or staff of any child care center. For purposes of this Rule, "staff" shall mean any regular or substitute caregiver, any volunteer, and any auxiliary personnel, including cooks, secretaries, janitors, maids, or vehicle drivers. The following shall apply at all child care centers:
- a. no child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or spanking;
  - b. no child shall be placed in a locked room, closet, or box or be left alone in a room separated from staff;
  - c. no discipline shall be delegated to another child;
  - d. no food shall be withheld as punishment or given as a means of reward;
  - e. no child shall be disciplined for toileting accidents;
  - f. no child shall be disciplined for not sleeping during rest period;

- g. no child shall be disciplined by assigning chores that require contact with or use of hazardous materials, such as cleaning bathrooms, floors, or emptying diaper pails;
  - h. physical activity, such as running laps and doing push-ups, shall not be withheld as punishment or required as punishment;
  - i. no child shall be yelled at, shamed, humiliated, frightened, threatened, or bullied; and
  - j. no child shall be restrained as a form of discipline unless the child's safety or the safety of others is at risk. For purposes of this Rule, "restraining" shall mean that a caregiver physically holds a child in a manner that restricts the child's movement, for a minimum amount of time necessary to ensure a safe environment. Notwithstanding any other provision of this Rule, no child shall be restrained through the use of heavy objects, including a caregiver's body, or any device such as straps, blankets, car seats, or cribs.
- b. (b) Discipline practices shall be age and developmentally appropriate.

**10A CAR 09 .1804 DISCIPLINE POLICY FOR CHILD CARE CENTERS**

- a. The person who conducts the enrollment conference shall provide a written copy of and explain the center's discipline policies to each child's parents at the time of enrollment.
- b. The child care center shall obtain from each parent, legal guardian, or full-time custodian a statement that attests that a copy of the center's written discipline policies was given to and discussed with him or her. That statement shall include the following:
  - a. the child's name;
  - b. the date of enrollment; and
  - c. if different, from the enrollment date the date the parent, legal guardian, or full-time custodian signed the statement.
- c. The signed, dated statement must be in the child's record and shall remain on file in the center as long as the child is enrolled. If a center changes its discipline policy at any time, it must give written notice of such a change to the child's parent, guardian, or full-time custodian 14 days prior to the implementation of the new policy. The center shall obtain the parent's signature on a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the child's file as long as the child is enrolled.

**SECTION .1900 SPECIAL PROCEDURES CONCERNING ABUSE/NEGLECT IN CHILD CARE**

**10A CAR 09 .1901 NOTIFICATION TO FAMILY SAFETY PROGRAM OF THE EBCI**

Any allegation of abuse or neglect received by the PHHS Division shall be referred to the EBCI Family Safety Program within 24 hours of receipt of the complaint or on the next working day. Regardless of the Family Safety Program's determination to investigate a referral, the complaint may be investigated by the Division.

**10A CAR 09 .1902 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .1903 INVESTIGATION PROCEDURES**

- a. The investigation shall include interviews with the operator, staff, parents, or any other adult who has information regarding the allegation. Reports from law enforcement officers and other professionals, as well as photographs and other investigative tools, may be used as appropriate.
- b. Only a Social Worker from the Family Safety Program may complete an interview of the child or children regarding any allegations of abuse or neglect.

- c. PHHS Division representatives shall share information related to investigations with The EBCI Family Safety Program, as appropriate. However, any information subject to confidentiality laws or regulations shall be handled so as to preserve the confidential nature of the material.
- d. At any time during the investigation, Division representatives may conduct an evaluation for compliance with all applicable requirements.
- e. A Division representative shall make a written report to the operator and the EBCI Family Safety Program when the investigation is completed. The Division may also report to law enforcement officers and other professionals that were involved in the investigation. This report shall explain the Division's findings and what further action will be taken, if any.
- f. The final written report of findings and further action shall be made within 90 days of receipt of the allegation. If the investigation is not complete at that time, an interim report explaining the status of the investigation shall be made to the operator 90 days after receipt of the allegation and every 30 days thereafter until the final report is made. The Family Safety Program or appropriate county department of social services shall be sent a copy of each interim report.

**SECTION .2000 RULEMAKING AND CONTESTED CASE PROCEDURES-  
RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .2001 PETITIONS FOR RULEMAKING**

**10A CAR 09 .2002 RULEMAKING PROCEDURES**

**SECTION .2100 RESERVED FOR FUTURE CODIFICATION**

**SECTION .2200 ADMINISTRATIVE ACTIONS AND CIVIL PENALTIES**

**10A CAR 09 .2201 ADMINISTRATIVE PENALTIES: GENERAL PROVISIONS**

- a. The Secretary or designee may order one or more administrative penalties against any operator who violates any Rule in this Chapter.
- b. Nothing in this Section shall restrict the Secretary from using any other civil penalty available. A civil penalty in accordance with Section .2200 of this Chapter may be imposed in conjunction with any other administrative activity.
- c. The issuance of an administrative penalty may be appealed.
- d. Following the substantiation of any abuse or neglect complaint or the issuance of any administrative action against a child care facility, the operator shall:
  - 1. maintain copies of documentation of the substantiated complaint investigation or the administrative action issued against the facility for the past three years in a binder, which is accessible to parents;
  - 2. within 3 business days, notify the parents of the children currently enrolled that a complaint was substantiated or that an administrative action was taken against the facility, including administrative actions that may be stayed pending appeal. The notice shall:
    - i. be in writing;
    - ii. include information on the nature of the substantiated complaint or the type of administrative action taken; and
    - iii. state where the binder containing copies of the substantiated complaint investigation or administrative action may be found on site for review by the parents; and

**Deleted: 10A CAR 09 .2003—DECLARATORY RULINGS**  
**10A CAR 09 .2004—CONTESTED CASES: DEFINITIONS**  
**10A CAR 09 .2005—CONTESTED CASES: REQUEST FOR DETERMINATION**  
 Reference 10A CAR 09 .2211(b)(2)  
**10A CAR 09 .2006—CONTESTED CASES: RECORD**  
**10A CAR 09 .2007—CONTESTED CASES: EXCEPTIONS TO RECOMMENDED DECISION**

- iv. document the date that the written notice was given to all parents and have parents sign an acknowledgement that they have received said notice.

#### **10A CAR 09 .2202 WRITTEN REPRIMANDS**

- a. A written reprimand may be issued to censure any violation which the Division determines to have been a brief uncustomary event which is unlikely to recur in the ordinary operation of the center or home.
- b. The reprimand shall describe the reasons for its issuance including identification of the specific section of the rules violated.

#### **10A CAR 09 .2203 WRITTEN WARNINGS**

- a. A written warning and a corrective action plan may be issued in regard to any violation to allow the operator an opportunity to demonstrate compliance with all requirements.
- b. The written warning and corrective action plan shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated. It shall also describe those actions necessary for the operator to be in full compliance with requirements and shall specify a time period for compliance to be achieved.
- c. If the operator fails to achieve compliance during the specified time period, the Division shall employ more restrictive action to achieve compliance or shall revoke the child care program's license.

#### **10A CAR 09 .2204 PROBATIONARY LICENSE**

- a. A permit may be placed in probationary status for a period of time not to exceed one year when, in the Division's determination, violation of any section of the rules has been willful, continual, or potentially hazardous to health or safety.
- b. The document ordering probation shall describe the reasons for its issuance including identification of the specific section of the statutes or rules violated and shall specify the period of probation. It shall also specify terms of probation with which the operator must comply to retain the permit.
- c. The order of probation shall be posted in a prominent place in the center or home during the probationary period. If probation is stayed pending appeal, the probation order shall remain posted in the center or home pending final action.
- d. Failure of the operator to comply with the terms of probation shall result in the commencement of proceedings to suspend or revoke the permit or child care licensure.

#### **10A CAR 09 .2205 SUSPENSION**

- a. Suspension of a permit for a period of time not to exceed 45 days may be ordered when violation of any section of the rules has been willful, continual, or considered to be hazardous to health or safety, and/or the operator has not made reasonable efforts to conform to standards.
- b. The operator shall be notified in advance of the determination to suspend the permit and the reasons for such action. The operator may request an agency review of the situation and shall be given an opportunity to show compliance with all requirements for retention of the permit.
- c. The suspension order shall specify the period of suspension and the reasons for its issuance. The operator shall surrender the license or permit to the Division on the effective date of the suspension order and shall refrain from operating a center or home during the suspension period.
- d. If suspension is stayed pending appeal, the suspension order shall be posted in a prominent place in the center or home pending final action.
- e. Failure to comply with the suspension order shall result in civil action. The Division may also seek further legal action

#### **10A CAR 09 .2206 REVOCATION**

- a. Revocation of a permit may be ordered when violation of any section of the rules has been willful, continual, or hazardous to health or safety, or the operator has not made reasonable efforts to conform to standards or is unable to comply.
- b. The operator shall be notified in advance of the determination to revoke the permit and the reasons for such action. The operator may request an agency review of the situation and shall be given an opportunity to show compliance with all requirements for retention of the permit.
- c. The revocation order shall specify the reasons for its issuance and the effective date of revocation and shall be posted prominently in the center or home immediately upon receipt. The operator shall surrender the permit on the effective date of the revocation order and shall refrain from operating the center or home thereafter.
- d. Failure to comply with the revocation order shall result in civil action. The Secretary may also seek injunctive relief.

#### **10A CAR 09 .2207 SUMMARY SUSPENSION**

- a. Summary suspension of a permit may be ordered when, in the Division's determination, emergency action is required to protect the health, safety, or welfare of children in a child care facility regulated by the Division.
- b. The suspension order shall specify the reasons for its issuance including identification of the specific section of the statutes and rules violated and the determination of the need for emergency action. The order shall be effective on the date specified in the order. The order shall be effective during proceedings to suspend or revoke the license.
- c. The operator shall surrender the license on the effective date of the order and shall refrain from operating a center or home until final action is determined.
- d. Failure to comply with the summary suspension order shall result in civil action. The Division may also seek injunctive relief.

#### **10A CAR 09 .2208 CIVIL PENALTIES: SCOPE AND PURPOSE**

Any operator who violates any provision of this Chapter, or who fails to take corrective action after being provided adequate written notice by the Division, shall be considered to be in willful violation of the licensing law and a civil penalty may be levied against the operator by the Division pursuant to rules and schedules of penalties adopted by the Division.

#### **10A CAR 09 .2209 AMOUNT OF PENALTY**

- a. The amount of the penalty against the program/facility assessed shall be based upon the following factors: willful or negligent non-compliance by the operator, history of non-compliance, extent of deviation from the regulation, evidence of good faith effort to comply, and any other factors relevant to the unique situation.
- b. The amount of the penalty shall be in accordance with the following schedule:
  1. Where a violation presents a clear and imminent danger to the safety of the children, a civil penalty up to one thousand dollars (\$1000) may be imposed;
  2. Where a violation endangers, or has the potential to endanger the children's health, safety, or well-being, a civil penalty up to five hundred dollars (\$500.00) may be imposed;

- c. Where a violation does not directly endanger the children, a civil penalty of up to two hundred and fifty dollars (\$250.00) may be imposed
- d. A separate penalty may be imposed for each violation

**10A CAR 09 .2210 NOTICE OF ASSESSMENT OF PENALTY**

**10A CAR 09 .2211 RECONSIDERATION AND APPEAL PROCEDURES**

- a. Applicants or licensees may request reconsideration or appeal eligible divisional determinations which are decisions made by the division that:
  - 1. Deny or alter a child care license;
  - 2. Mandate civil money penalties be imposed;
  - 3. Or, requires the use of resources in excess of one thousand dollars (\$1,000) to maintain or achieve substantial compliance with requirements as determined by the division.
- b. Within 30 days of the Division's written determination eligible for appeal, the applicant or license holder may do one of the following:
  - 1. Make a written request for a reconsideration hearing to be held by the division's hearing officer or committee. All requests for reconsideration hearing must be in writing and contain a statement of the facts prompting the request sufficient to allow for appropriate processing. The request for reconsideration hearing shall be delivered in person, by mail, facsimile, or electronic mail with proof of receipt to the PHHS Regulatory and Compliance Department. This contact information will be provided in the divisions written decision and can also be obtained by calling PHHS at 828-359-6180.
  - 2. If after the reconsideration hearing the applicant or licensee believes that the Division acted arbitrarily or capriciously, the applicant or licensee may petition for a contested case to be heard by an administrative law judge in the Cherokee Court, pursuant to C.C. Section 150-16(b) and C.C. Chapter 150, Article 4.
- c. Any Divisional determination shall be in full force and effect during any request for reconsideration hearing, or contested case hearing.

**10A CAR 09 .2212 FAILURE TO PAY ASSESSED PENALTY**

**10A CAR 09 .2213 SCHEDULE OF CIVIL PENALTIES FOR CHILD CARE CENTERS**

- a. The following penalties may be assessed against child care centers.
- b. A civil penalty in an amount up to one thousand dollars (\$1,000) may be imposed for the following violations:
  - 1. Non-compliance with the standards for:
    - i. Staff-child ratios;
    - ii. Adequate supervision of children;
    - iii. Transportation of children; or
    - iv. Use of swimming pools and other swim areas;
  - 2. Disapproved fire safety, building or sanitation inspection reports;
  - 3. Exceeding licensed capacity of center, or use of unauthorized space;
  - 4. Change of ownership or relocation of center without prior notification to the Division;
  - 5. Substantiation that a child (or children) was abused or neglected while in the care of the center; or
  - 6. Willful, repeated pattern of non-compliance with any requirement over an extended period of time.

- c. A civil penalty in an amount up to five hundred dollars (\$500.00) may be imposed for the following violations:
  - 1. Non-compliance with the standards for:
    - i. Staff health requirements;
    - ii. Staff qualifications;
    - iii. Children's health requirements;
    - iv. Proper nutrition;
    - v. Sanitation and personal hygiene practices;
    - vi. Discipline of children;
    - vii. Indoor or outdoor space; or
    - viii. Emergency medical plan;
  - 2. Failure to comply with a corrective action plan;
  - 3. Denial of entry to an authorized representative of the department or Division.
- d. A civil penalty in an amount up to two hundred and fifty dollars (\$250.00) may be imposed for the following violations:
  - 1. Non-compliance with the standards to provide:
    - i. Age-appropriate activities; or
    - ii. Staff development
  - 2. Failure to post probational permit; or
  - 3. Failure to maintain accurate records.
- e. Violation of other standards may result in the assessment of a penalty according to the effect or potential effect of the violation on the safety and well-being of the child.

**10A CAR 09 .2214 SCHEDULE OF CIVIL PENALTIES FOR FAMILY CHILD CARE HOMES**

Penalties may be assessed against family child care homes as defined in G.S. 110-86(3)(b) as follows:

- a. A civil penalty in an amount up to one thousand dollars (\$1,000.00) may be imposed for the following violations:
  - 1. When the Division has determined that child maltreatment occurred while a child was in care at the family child care home; or
  - 2. Willful, repeated pattern of non-compliance with any requirement.
- b. A civil penalty in an amount up to two hundred dollars (\$200.00) may be imposed for the following violations:
  - 1. Non-compliance with the standards of G.S. 110, Article 7 and this Chapter for:
  - 2. Licensed capacity;
  - 3. Supervision of children;
  - 4. Administration of medication to children;
  - 5. Emergency medical care plan;
  - 6. Discipline of children;
  - 7. Transportation of children; or
  - 8. Use of swimming pools and other swim areas;
    - i. Disapproved fire safety, building or sanitation inspection reports;
    - ii. Relocation of the family child care home without prior notification to the Division;
- c. A civil penalty in an amount up to one hundred dollars (\$100.00) may be imposed for the following violations:
  - 1. Non-compliance with the standards of G.S. 110, Article 7 and this Chapter for:
    - i. Staff health requirements;
    - ii. Staff qualifications;



- iii. Staff training;
  - iv. Children's health requirements;
  - v. Proper nutrition;
  - vi. Sanitation and personal hygiene practices;
  - vii. Age-appropriate activities;
  - viii. Posting current license;
  - ix. Maintaining accurate records; or
  - x. Safe environment;
- 2. Failure to comply with a corrective action plan; and
  - 3. Denial of entry to a representative of the Department or Division.
- d. Violation of other standards of G.S. 110, Article 7 and this Chapter that are not specifically referenced elsewhere in this Rule may result in the assessment of a penalty according to the effect or potential effect of the violation on the safety and well-being of the child.

**10A CAR 09 .2215 DENIAL OF A LICENSE**

- a. The Secretary may deny an application for a child care facility license or the issuance of any permit to operate a child care facility under the following circumstances:
- 1. if the applicant owned or operated a licensed child care facility that was issued a denial, revocation, or summary suspension by the Division;
  - 2. if the applicant owned or operated a licensed child care facility against which the Division initiated denial, revocation, or summary suspension proceedings and the applicant voluntarily relinquished the license prior to the issuance of a final action;
  - 3. during the pendency of an appeal of a denial, revocation, or summary suspension of any other licensed child care facility license owned or operated by the applicant;
  - 4. if the applicant owned or operated a facility that received a sanction for fraudulent misrepresentation pursuant to 10A CAR 10 .0308 of the Subsidized Child Care Rules;
  - 5. if the applicant owned or operated a facility that was issued a Notice of Termination and Disqualification by the Child and Adult Care Food Program (CACFP);
  - 6. if the Division determines that the applicant has a relationship with an operator or former operator who owned or operated a regulated child care facility as described in Subparagraphs (1) through (5) of this Paragraph. As used in this Rule, an applicant has a relationship with a former operator if the former owner or operator would be involved with the applicant's child care facility in one or more of the following ways:
    - i. would participate in the administration or operation of the facility;
    - ii. has a financial interest in the operation of the facility, as evidenced by, among other things, a familial relationship with the former owner or operator, employment at the new facility, and ownership of the building or property where the facility is located; or entering into a lease for the building;
    - iii. provides care to children at the facility, even as a volunteer;
    - iv. resides in the facility;
    - v. has an ownership interest in the facility as defined in 10A CAR 09 .0102(33); or
    - vi. would serve on the facility's board of directors, be a partner of the corporation, or otherwise have responsibility for the administration of the business;
  - 7. based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110, Article 7, 10A CAR 10, or this Chapter;
  - 8. based on the operator's non-compliance with the requirements of G.S. 110, Article 7, 10A CAR 10, or this Chapter, during a temporary licensure period;
  - 9. if abuse or neglect or child maltreatment has been substantiated against the applicant pursuant to G.S. 7B-101 or G.S. 110-105.5; or

- 10. if the applicant is a disqualified child care provider or has a disqualified household member residing in the child care facility pursuant to G.S. 110-90.2.
- b. (b) In determining whether denial of the application for a license is warranted pursuant to Paragraph (a) of this Rule, the Division shall consider:
  - 1. any documentation provided by the applicant that describes the steps the applicant will take to prevent reoccurrence of noncompliance with the requirements of G.S. 110, Article 7, 10A CAR 10, or this Chapter;
  - 2. training certificates or original transcripts for any coursework from a nationally recognized or regionally accredited institution of higher learning related to providing quality child care, and that was taken subsequent to any prior administrative action against a license previously held by the applicant. "Nationally recognized" means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the accrediting bodies;
  - 3. proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;
  - 4. documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; or
  - 5. documentation explaining relationships with persons meeting the criteria listed in Subparagraph (a)(6) of this Rule.
- c. (c) Operators who held a child care facility license or permit that was denied, revoked, subject to a cease operation order, or summarily suspended within the past five years shall be ineligible to apply for a new child care license.

**SECTION .2300 FORMS**

- 10A CAR 09 .2301 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2302 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2303 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2304 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2305 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2306 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2307 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2308 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2309 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2310 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2311 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2312 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2313 RESERVED FOR FUTURE CODIFICATION**
- 10A CAR 09 .2314 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .2315 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .2316 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .2317 RESERVED FOR FUTURE CODIFICATION**

**10A CAR 09 .2318 CHILD CARE CENTER RECORD RETENTION**

All records required in this Chapter shall be maintained for review by representatives of the Division, and as follows:

- a. The records shall be available at the center during the hours of operation listed on the child care license.
- b. Records may be maintained in a paper format or an electronic format, provided that all required signatures are preserved in a paper format, PDF or other used graphic format.
- c. Records regarding administration of medications required by Rules .0302(f)(7) and .0803(13) of this Chapter shall be maintained during the time period the 120 medication is being administered and for six months after the medication is administered.
- d. All building inspections as referenced in Rule .0302 of this Chapter shall remain on file at the center for as long as the license remains valid.
- e. All fire, sanitation, and pool, inspections as referenced in Rules .0302 and .1403 of this Chapter shall remain on file at the center for a minimum of three years.
- f. Each child care center shall retain records for children as follows:

Type of Child Record	In each child's file, for as long as the child is enrolled	For 1 year after the child is no longer enrolled
Child Medical Report Rule .0302(f)(2)	X	X
Immunization Record Rule .0302(f)(2)	X	X
Child Application Rules .0302(f)(2) and .0801(a)	X	X
Child Emergency Medical Care Information Rules .0302(f)(2), .0801(a)(1) and .0802(c) through (d)	X	X
Safe Sleep Policy Rule .0606(c)	X	X
Notice of Amendment to Safe Sleep Policy Rule .0606(d)	X	X
Safe Sleep Waiver Rule .0606(e)	X	X
Child Medical Action Plan Rule .0801(b)	X	X
Incident Report Rule .0802(e)	X	X
Parental Permission for Administration of Medication Rules .0803(3), (4), (6) through (9) and (11)	X	X
Supplemental Food "Opt Out" Statement Rule .0901(d)	X	X
Parental Permission for Transportation Rules .1003(i) and (j), .1005(b)(3) and (4)	X	X
Parental Permission for Aquatic Activities Rule .1403(i)	X	X
Discipline Policies Rule .1804(a)	X	X
Notice of Change to Discipline Policies Rule .1804(b)	X	X

g. Each child care center shall retain records for the program as follows:

Type of Personnel Record	For at least 1 year after employee is no longer employed	For 1 Year After Record Created	Until the record is superseded by a new statement	In each personnel file or designated emergency preparedness file
Application for Employment Rule.0302(d)(1)(a)	X			
Staff Medical Report Rules .0302(d)(1)(C) and .0701(a)	X			
Health Questionnaire Rules .0302(d)(1)(C) and .0701(a)	X			
Proof of Tuberculosis Test Rules .0302(d)(1)(C) and .0701(a)	X			
Staff Emergency Medical Care Information Rules .0302(d)(1)(C) and .0701(a)	X			
Evaluation of Emotional and Physical Fitness (as applicable) Rule .0701(b)	X			
Verification of Age Rules .0302(d)(1)(A), .0703, and .0704	X			
Criminal Record Check Information Rules .0302(d)(1)(E);	X			
Education and Equivalency Forms Rules .0302(d)(1)(B), .0703, .0704 and .2510	X			
Record of On-going Training Rules .0302(d)(1)(D), and .1103(a)	X			
Documentation of Staff Orientation Rules .0302(d)(1)(D), and .1101(a)	X			
Documentation of Emergency Preparedness and Response in Child Care Training Rule .0607(b)				X
Documentation of Review of Emergency Preparedness and Response Plan Rules .0607(e), (f) and (g)				X
Documentation of First Aid training Rule .1102(c)	X			
Documentation of CPR training Rule .1102(d)	X			
Documentation of Playground Safety Training if applicable Rule .1102(e)	X			
Documentation of ITSSIDS Safe Sleep Training if applicable Rule .1102(f)	X			
Documentation of Aquatic Activities Policy Receipt Rule .1403(h)		X	X	
Documentation of BSAC training if applicable Rule .2510	X			

h. Each child care center shall retain records for the program as follows:

Type of Personnel Record	As long as the license remains valid	A minimum of 30 days after revised or replaced	A minimum of 1 year after record created, revised or replaced.
Attendance Rule .0302(d)(3)			X
Daily record of arrival and departure times for children Rule .0302(d)(4)			X
Fire Drill Log Rules .0302(d)(5) and .0604(t)			X
Playground Inspection Rules .0302(d)(6) and .0605(q)			X
Lockdown or Shelter-In-Place Drill Record Rules .0302(d)(8) and .0604(u)			X
Daily Schedule Rule .0508(a)			X
Activity Plan Rule .0508(a)		X	
Manufacturer's Instructions for equipment and furnishings Rules .0601(b) and .0605(b)	X		
Fire Evacuation Procedures Rule .0604(r)	X		
Written plan for evacuation in centers that do not meet institutional building code Rule .0604(r)			X
Safe Pick-Up and Delivery Procedures Rule .1003			X
Safe Sleep Policy Rule .0606(a)	X		
SIDS Sleep Chart/Visual Check Rule .0606(a)(7)		X	
Emergency Preparedness and Response Plan Rules .0607(c) and (d)			X
Emergency Medical Care Plan Rule .0802(a)			X
Incident Log Rule .0802(f)			X
Menu Rule .0901(b)		X	
Allergy Postings Rule .0901(g)		X	
Infant Feeding Plan Rule .0902(a)		X	
Identifying Information for Children being Transported Rule .1003(d)			X
List of children being transported Rules .1003(l) and .1005(b)(6)			X
Schedule of Off Premise Activities Rule .1005(b)(5)			X
Aquatic Activity Policies Rule .1403(g)	X		
Documentation of emergency that necessitated a lack of direct supervision Rule .1801(a)	X		
Discipline Practices Rules .1803 and .1804	X		

**SECTION .2400 CHILD CARE FOR MILDLY ILL CHILDREN**

#### **10A CAR 09 .2401 SCOPE**

The rules in this Section apply to all child care centers offering short term care to children who are mildly ill and who would otherwise be excluded from care as required by Rule .0804 of this Chapter. Care may be provided as a component of a child care center that provides child care to well children or may be provided as a separate stand-alone program. All rules in this Chapter shall apply except as provided in this Section.

#### **10A CAR 09 .2402 DEFINITIONS**

- a. "Child care for mildly sick children" is defined as the care of children who are not able to attend their regular school or child care arrangement due to inability to participate in activities and requirements set forth in 10A CAR 09 .0804.
- b. "Health care professional" is defined as:
  1. a licensed physician;
  2. the physician's authorized agent who is currently approved by the North Carolina Medical Board, or comparable certifying board in any state contiguous to North Carolina;
  3. a certified nurse practitioner;
  4. a nurse rostered with the Office of Public Health Nursing and Professional Development as required by the Division of Medical Assistance;
  5. a registered nurse (RN); or
  6. a certified physician assistant.
- c. "Short term care" is defined as attending for no more than three consecutive days, or for more than three consecutive days with written permission from a physician which was obtained prior to the fourth consecutive day of attendance.

#### **10A CAR 09 .2403 SPECIAL PROVISIONS FOR LICENSURE**

- a. A center that enrolls mildly sick children as a component of a child care center shall have approval for short term care for mildly sick children indicated on their license. A copy of the license shall be posted in the area used by mildly sick children so that it is easily seen by the public.
- b. A center that enrolls mildly sick children as a component of a child care center may admit mildly sick children only who regularly attend the center.
- c. A child care center operated as a separate stand-alone program shall be issued a license restricting services to short term care for mildly sick children.
- d. Any center that enrolls mildly ill children shall develop written policies that contain the following:
  1. Admission requirements;
  2. Inclusion/Exclusion criteria;
  3. Preadmission health assessment procedures; and
  4. Plans for staff training and communication with parents and health care professionals.

These policies shall be reviewed by a child care health consultant or other health care professional prior to licensure.

#### **10A CAR 09 .2404 INCLUSION/EXCLUSION REQUIREMENTS**

- a. Centers may provide care for mildly sick children over three months of age who meet the following inclusion criteria:
  1. Centers may provide care for children with Level One symptoms as follows:

- A. children who meet the guidelines for attendance in 10A CAR 09 .0804, except that they are unable to participate fully in routine group activities and are in need of increased rest time or less vigorous activities; or
  - B. children with fever controlled with medication of 101 degrees or less axillary or 102 degrees or less orally;
2. Centers may enroll children with Level Two symptoms as follows:
- A. inability to participate in much group activity while requiring extra sleep, clear liquids, light meals, and passive activities such as stories, videos or music, as determined by a health care professional;
  - B. fever controlled with medication of 103 degrees maximum orally, or 102 degrees maximum axillary, with a health care professional's written screening;
  - C. vomiting fewer than three times in any eight-hour period, without signs of dehydration;
  - D. diarrhea without signs of dehydration and without blood or mucus in the stool, fewer than five times in any eight-hour period; or
  - E. with written approval from a child's physician and preadmission screening by an on-site health care professional prior to the current day's attendance unless excluded by Subparagraphs (b)(1), (2), (3), (4), (6), or (7) of this Rule.
- b. Any child exhibiting the following symptoms shall be excluded from any care by the on-site administrator or the on-site health care professional:
- 1. temperature unresponsive to control measures;
  - 2. undiagnosed or unidentified rash;
  - 3. respiratory distress as evidenced by an increased respiratory rate and unresponsiveness to treatment, flaring nostrils, labored breathing, or intercostal retractions;
  - 4. major change in condition requiring further care or evaluation;
  - 5. contagious diseases required to be reported to the health department, except as provided in Part (a) (2)(E) of this Rule;
  - 6. other conditions as determined by a health care professional or onsite administrator; or
  - 7. mental status such as decrease awareness or change in mood.
- c. Once admitted, children shall be assessed and evaluated at least every four hours, or more frequently if warranted based on medication administration or medical treatment, to determine if symptoms continue to meet inclusion criteria as set forth in this Rule.

**10A CAR 09 .2405 ADMISSION REQUIREMENTS**

- a. Written permission from a parent is required for admission of a mildly sick child. If a child is assessed to need care because he or she is mildly ill, permission may be given by telephone and documented if a child is to be moved from the well child component of the center to the mildly sick area, as long as written permission is received prior to the second day of attendance.
- b. Each parent shall sign a statement which attests that a copy of the policies described in Rule .2403 of this Section were given to and discussed with him or her prior to a mildly sick child's attendance.
- c. The on-site administrator or health care professional shall have the authority to require a written medical evaluation for a child to include diagnosis, treatment and prognosis, if such evaluation is necessary to determine the appropriateness of a child's attendance prior to admission or upon worsening of the child's symptoms.
- d. A parent shall remain on the premises until the preadmission health assessment and individualized plan of care has been completed by center staff who have completed the training described in Rule .2408(a)(3), and the child has been approved for attendance.

- e. No child shall be admitted unless staff who meet the qualifications in Rule .2408 of this Section are on site and available to provide care.

**10A CAR 09 .2406 STAFF/CHILD RATIOS**

The staff/child ratio and group size for programs that accept mildly ill children shall be determined based on the age of the youngest child in the group and shall be as follows:

Age of Child	No. of Children	No. of Staff	Max. Group Size	No. of Staff
3 Months to 2 Years	3	1	6	2
2 to 5 Years	4	1	8	2
5 Years and older	5	1	10	2

**10A CAR 09 .2407 SPACE REQUIREMENTS FOR MILDLY SICK CHILDREN**

- a. There shall be at least 45 square feet of inside space per child present. When space is measured the following will not be included: closets, hallways, storage areas, kitchens, bathrooms, utility areas, thresholds, foyers, space or rooms used for administrative activities or space occupied by adult-sized desks, cabinets, file cabinets, etc.; any floor space occupied by or located under equipment, furniture, or materials not used by children; and any floor space occupied by or located under built-in equipment or furniture.
- b. A center that enrolls mildly sick children as a component of a child care center shall:
  - 1. ensure that if the outdoor play area is shared by both well and mildly sick children, ensure that there are separate areas of play; and
  - 2. ensure that the indoor area used by the mildly sick children shall be separated by an interior or exterior entrance
- c. An outdoor play area is not required for children who are mildly sick. If a child is in care for more than three consecutive days, however, he or she must have the opportunity to go outside for play or leisure activities.

**10A CAR 09 .2408 STAFF QUALIFICATIONS**

- a. All staff working with the mildly sick children shall complete all requirements in this Chapter pertaining to preservice training in 10A CAR 09 .0704, .0701 and .0711, orientation in 10A CAR 09 .1101, on-going training in 10A CAR 09 .1103, and staff records in 10A CAR 09 .0701. In addition, the requirements for staff who care for children with Level One symptoms as described in Rule .2404, Paragraphs (a)(1)(A) and (B) of this Section shall be as follows:
  - 1. Each group of children shall have a lead teacher present who has the North Carolina Early Childhood Credential or its equivalent prior to assuming care giving responsibilities.
  - 2. Each group of children shall have a staff person present who meets the requirements in 10A CAR 09 .0705(a), (b), and (d). This may be the same individual referenced in Subparagraph (a)(1) of this Rule.
  - 3. In addition to staff orientation requirements in Section .1103, prior to assuming care for children and given duties, all caregivers must complete 10 hours of training and demonstrate competency on how to perform the following:
    - A. storage and administration of medication;
    - B. infection control procedures;
    - C. aspiration of nasal secretions;
    - D. positioning for sleeping and eating;
    - E. temperature and respiratory rate taking;



- F. documentation of signs, symptoms, physical appearance, intake and output, communication with family and physicians;
  - G. recognizing when to temporarily stop, increase, or decrease oral intake;
  - H. recognizing signs and symptoms associated with the increased severity of illness including behavioral changes, changes in bowel movements, increased sluggishness, etc.;
  - I. developing individualized plans of care;
  - J. special dietary requirements and maintaining hydration; and
  - K. emergency procedures, including notification of a parent, should a child's condition worsen.
4. Any caregiver caring for a child whose illness requires special knowledge, skills or equipment shall have appropriate training and equipment when applicable prior to caring for the child.
  5. Completion of the above training may count toward meeting one year's annual on-going training requirements in Section .0700 of this Chapter.
  6. When a center enrolls mildly sick children as a component of a child care center, the administrator shall meet the education requirements for administrators.
- b. In addition to the staffing requirements listed in this Rule, if children with Level Two symptoms as described in of Rule .2404 of this Section are in care, the following number of medical staff shall be on site based upon the total number of children in care.

<u>No. of Children</u>	<u>Type of Medical Staff</u>
1 to 10	At least an RN, or a LPN with a health care professional in the immediate vicinity
10 to 20	At least an RN
20 to 40	At least an RN and an additional LPN

Each medical staff shall have at least one year of full-time pediatric nursing experience and may count in staff/child ratio. Medical staff may also act as lead teachers if they have the North Carolina Early Childhood Credential or equivalent.

#### **10A CAR 09 .2409 CHILDREN'S RECORDS**

- a. In addition to all other children's records required in this Chapter, the following shall be completed for the children admitted to the mildly sick area:
  1. Preadmission health assessment which includes documentation of health status, current symptoms, baseline temperature and respiratory rate, and any medications administered in the last 24 hours.
  2. General admission information which includes information about the child's typical behavior, activity level, patterns of eating, sleeping and toileting.
  3. An individualized plan of care describing how the child's needs shall be met, based upon this Rule, shall be developed by the parent and a staff member who has completed training described in Subparagraph (a)(3) of Rule .2408 of this Section.
  4. A daily written record shall be maintained, and a copy given to parents of the child's eating, sleeping and toileting patterns; medications administered; activity levels; changes in symptoms; and any additional information that the provider deems relevant such as child's temperament.

- b. A records shall be on file in the mildly sick area prior to admittance of the mildly sick child to the mildly sick area. If a child is enrolled in the well child care component of a child care center, records may be maintained in the well child care area, along with a copy of the child's enrollment application as required in Rule .0801 of this Chapter. The records specified in Subparagraphs (a)(1) through (a)(4) of this Rule shall be kept in the mildly sick area.

#### **10A CAR 09 .2410 CHILDREN'S ACTIVITIES**

- a. Daily activities shall be provided in accordance with Section .0500 of these Rules and in accordance with each child's individualized plan of care. Activity areas shall not be required, but developmentally appropriate equipment and materials must be available daily for mildly sick children in care.
- b. Eating, toileting, sleeping, resting, and playing shall be individually determined and flexible to allow each child to decide when and whether to participate in available activities, and to nap or rest at any time.
- c. Daily outdoor time shall be available for children with Level One symptoms who are present more than three consecutive days unless deemed inappropriate by the child's attending health care professional.

#### **10A CAR 09 .2411 NUTRITION REQUIREMENTS**

Meals and snacks shall be provided in accordance with Section .0900 of this Chapter unless a child's individualized plan of care specifies otherwise.

### **SECTION .2500 CARE FOR SCHOOL-AGE CHILDREN- RESERVED FOR FUTURE CODIFICATION**

#### **10A CAR 09 .2501 SCOPE**

The rules in this Section apply to all child care centers offering care to three or more school-age children exclusively or as a component of any other program. All rules in this Chapter pertaining to care for school-age children apply except as provided in this Section.

#### **10A CAR 09 .2502 SPECIAL PROVISIONS FOR SUMMER DAY CAMPS**

- a. A center providing care for school-age children exclusively on a seasonal basis between May 15 and September 15 shall be licensed as a summer day camp.
- b. A facility licensed as a summer day camp shall have a permanent structure located at the home base, which is the primary site of the summer day camp activities. The permanent structure may be a building or permanent roofed shelter with overhang. The summer day camp shall meet one of the following space requirements:
  - 1. when activities for children are conducted outdoors or off the premises for at least 75 percent of each day, a minimum of 10 square feet per child of indoor space, exclusive of kitchens, hallways, restrooms, closets, and storage areas, shall be provided; or

2. when the camp's home base does not provide 10 square feet of primary space indoors, the camp shall provide notarized copies of all letters, agreements, or contracts with other facilities to the Division which guarantee that children will be accommodated comfortably indoors in the event of inclement weather.
- c. For the purpose of carrying out the provisions of C.C. 110B-91(5) for summer day camps not covered by 10A CAR 09 .2503(a)(1), the following North Carolina Building Codes apply to the structure described in Paragraph (b) of this Rule shall apply;
1. when the authorized capacity of the facility is less than 30 children, the structure shall meet the requirements for residential occupancy as prescribed in the North Carolina Building Code. Children may use only those floors which have one grade level exit;
  2. When the authorized capacity of the facility is more than 29 children, but less than 100 children, the structure shall meet the North Carolina Building Code requirements for business occupancy; or
  3. when the authorized capacity of the facility is more than 99 children, the structure shall meet the North Carolina Building Code requirements for assembly occupancy, or educational occupancy or institutional occupancy.
- d. If a summer day camp maintains its master records for children and staff in a central location, emergency information for each staff person and child shall always be on site. The emergency information on site shall include the name and telephone numbers of the child's parent or other responsible person, the child's or staff person's health care professional or preferred hospital, any chronic illnesses and medication taken for that illness, any allergy and recommended treatment for that allergy, and any other information that has a direct bearing on medical treatment and safe care. The parent's signed permission to obtain medical attention must also be on site with the child.
- e. If food is prepared at the summer day camp, the rules regarding sanitary facilities, food preparation and service for summer camps as adopted by the Commission for Public Health and codified in 15A NCAC 18A .1000 apply.
- f. Staff in summer day camp programs required to complete Basic School-Age Care (BSAC) training as defined in Rule .0102 of this Chapter shall do so within four weeks of becoming employed.

**10A CAR 09 .2503 BUILDING CODE REQUIREMENTS**

- a. Building code requirements incorporated by reference in Section .1300 of this Chapter apply for a facility providing care to school-age children except that any building that is approved for school occupancy and which houses a public or private school during the school year shall be considered an approved building to house a facility serving school-age children exclusively. The operator shall obtain and submit copies of all applicable inspection reports to the Division. The North Carolina State Building Code is hereby incorporated by reference, inclusive of subsequent amendments. The current Code can be found online at [http://www.doi.com/OSFM/Engineering\\_and\\_Codes/Default.aspx?field1=Codes\\_-\\_Current\\_and\\_Past&user=State\\_Building\\_Codes](http://www.doi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Current_and_Past&user=State_Building_Codes) at no cost.

**10A CAR 09 .2504 SPACE REQUIREMENTS**

All space requirements specified in Section .1400 shall apply when a facility provides care for school-age children and any preschool child is also in care, or when a program that provides care exclusively for school-age children operates indoors in a permanent structure for more than 25 percent of each day. A gymnasium or other single use room may be included in the space measured for licensed capacity when used as primary space.

**10A CAR 09 .2505 HEALTH REQUIREMENTS FOR CHILDREN**

- a. All requirements of Section .0800 of this Chapter shall apply to school-age child care arrangements with the following exceptions:
  - 1. a medical examination report shall not be required for any child enrolled in a public school or private school as described in C.C. 110B-86(1)f; and
  - 2. Rule .0806 of this Chapter shall not apply.
- b. All requirements specified in Section .0900 of this Chapter shall apply.
- c. If food is brought from home by children or catered, the following requirements shall apply:
  - 3. (1) sanitary cold storage shall be provided for perishable snacks or lunches brought from home.
  - 4. (2) safe drinking water shall be available at all times regardless of where activities are provided.

**10A CAR 09 .2506 GENERAL SAFETY REQUIREMENTS**

- a. First Aid equipment shall be available regardless of where activities are provided.
- b. All requirements in Rule .1403 of this Chapter regarding activities involving water shall apply.
- c. Potentially hazardous items, such as archery equipment, hand and power tools, nails, chemicals, or propane stoves, shall be used by children only when adult supervision is provided. Such potentially hazardous items, whether or not intended for use by the children, shall be stored in locked areas or with other safeguards, or shall be removed from the premises.
- d. All children shall be adequately supervised. Adequate supervision means staff shall be with the group of children and able to hear or see each child in his or her care, except:
  - 1. Children who are developmentally able may be permitted to go to the restroom independently, provided that:
    - i. staff members' proximity to children assures immediate intervention to safeguard a child from harm;
    - ii. individuals who are not staff members may not enter the restroom area while in use by any child; and
    - iii. children up to nine years of age are supervised by staff members who are able to hear the child. Children nine years of age and older are not required to be directly supervised, however, staff members shall know the whereabouts of children who have left their group to use the restroom;
  - 2. Adequate supervision for children nine years of age and older means that staff are with the group of children and able to hear or see each child in his or her care. A staff member shall accompany any children who leave the group to go indoors or outdoors; and
  - 3. When emergencies necessitate that direct supervision is impossible for brief periods of time.
- e. (e) Children riding bicycles must wear safety helmets.

**10A CAR 09 .2507 RESERVED FOR FUTURE USE**

**10A CAR 09 .2508 AGE APPROPRIATE ACTIVITIES**

- a. Child care facilities that provide care to school-age children shall provide a balance of teacher directed and free choice activities appropriate to the age, needs, and interests of the children.
- b. Opportunities must be provided for children to participate in the planning and the implementation of activities.
- c. Facilities that operate a school-age component for three or fewer hours per day shall make three of the following activities available daily; those that operate a school-age component for more than three hours per day shall make four of the following activities available daily:
  - 1. career development activities;

2. community awareness activities;
  3. creative arts activities;
  4. cultural activities;
  5. games or manipulatives;
  6. hands-on academic enrichment activities including language, math, science, social studies, or foreign language activities;
  7. health education or wellness activities;
  8. homework with assistance available as needed from center personnel;
  9. reading activities;
  10. sand or water play;
  11. social skills, life skills or problem-solving activities;
  12. structured or unstructured physical activities; or
  13. technology skill-building activities.
- d. All equipment and materials used by school-age children shall be appropriate for the age and size of the children using the items.
- e. When screen time is provided on any electronic device with a visual display, it shall be:
1. offered as a free choice activity;
  2. used to meet a developmental goal;
  3. limited to a maximum of 30 minutes per day and no more than two and a half hours per week, per child;
  4. documented on a cumulative log or activity plan, available for review by a representative of the Division; and
  5. usage time periods may be extended for school assigned homework.
- f. Cots, beds, or mats with linens shall not be required for school-age children. However, provision shall be made for children who wish to rest or who are sick to rest in a comfortable place.

**10A CAR 09 .2509 ACTIVITIES: OFF PREMISES**

- a. The requirements of this Rule and Section .1000 of this Chapter shall apply when activities for school-age children are conducted outdoors or off the premises for 75 percent of each day.
- b. The facility shall develop a plan of activities which is posted in a place in the home base or given to the parents. The plan shall include the location, purpose, time and date, person in charge, and telephone number or method for contacting the person in charge.
- c. Activities shall be planned to accommodate a variety of individual interests and shall provide opportunities for choice.
- d. Written permission from parents shall be obtained before transporting children on field trips or leaving the premises.
- e. Blanket permissions from parents for field trips or leaving the premises shall be acceptable only when a plan of activities to be conducted off the premises is posted in a place for review by parents and staff in advance on a weekly basis.

**10A CAR 09 .2510 STAFF QUALIFICATIONS**

- a. The individual who is responsible for ensuring the administration of the program, whether on-site or off-site, shall:
  1. Prior to employment, have at least:
    - i. 400 hours of experience working with school-age children in a licensed child care program;
    - ii. 600 hours of verifiable experience working with school-age children in an unlicensed school-age care or camp setting; or

- iii. (C) have an undergraduate, graduate, or associate degree, with at least 12 semester hours in school-age care related coursework; and
    - 2. Meet the requirements for a child care administrator in C.C. 110B-91(8).
  - b. At least one individual who is responsible for planning and ensuring the implementation of daily activities for a school-age program (program coordinator) shall:
    - 1. Be at least 18 years old and have a high school diploma or its equivalent prior to employment;
    - 2. Have completed two semester credit hours in child and youth development and two semester credit hours in school-age programming. Each individual who does not meet this requirement shall enroll in coursework within six months after becoming employed and shall complete this coursework within 18 months of enrollment. An individual who meets the staff requirements for administrator or lead teacher shall be considered as meeting the requirements for program coordinator, provided the individual completes Basic School-Age Care (BSAC) training as defined in 10A CAR 09 .0102(4) of this Chapter, and
    - 3. Be on site when children are in care for programs offering before and after school care only. For a full day program, the program coordinator shall be on site for two thirds of the hours of operation. This includes times when the individual is off site due to illness or vacation.
  - c. Staff who are responsible for supervising groups of school-age children (group leaders) shall be at least 18 years of age and have a high school diploma or its equivalent prior to employment and shall complete the BSAC training.
  - d. Staff who assist group leaders (assistant group leaders) shall be at least 16 years of age and shall complete the BSAC training.
  - e. The individual who is on-site and responsible for the administration of the school-age component of a center which also provides care to preschool-age children, shall meet the requirements for child care administrator in C.C. 110B-91(8) and Rule .0704 of this Chapter.
  - f. When an individual has responsibility for both administering the program and planning and ensuring the implementation of the daily activities of a school-age program, the individual shall meet the staff requirements for an administrator and shall complete the BSAC training.
  - g. Completion of the BSAC training course, shall count toward meeting five hours of one year's annual on-going training requirements in Rule .1103 of this Chapter.
  - h. As used in this Rule, the term "experience working with school-age children" means experience working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher, or aide.
  - i. All staff shall receive on-site training and orientation as follows:
    - 1. Within the first two weeks of assuming responsibility for supervising a group of children, each employee shall complete at least six clock hours of training on:
      - i. recognizing, responding to, and reporting child abuse, neglect or maltreatment pursuant to C.C. 110B-105(b)(3);
      - ii. the center's operational policies, including the transportation policy, identification of building and premises safety issues, Emergency Preparedness and Response Plan and the emergency medical care plan;
      - iii. adequate supervision of children, taking into account their age, emotional, physical, and cognitive development; and
      - iv. prevention and control of infectious diseases, including immunization; and
    - 2. Within the first six weeks of assuming responsibility for supervising a group of children, each employee shall complete at least three additional clock hours of training on:
      - i. maintaining a safe and healthy environment and developmentally appropriate activities for school-age children;

- ii. firsthand observations of the program's daily operations and instruction in the employee's assigned duties;
  - iii. instruction in the administration of medication to children in accordance with 10A CAR 09 .0803;
  - iv. successfully complete CPR and First Aid training appropriate for the ages of children in care;
  - v. prevention of and response to emergencies due to food and allergic reactions;
  - vi. review of the program's handling and storage of hazardous materials and the appropriate disposal of biocontaminants; and
  - vii. review of child care licensing law and rules, including an explanation of the role of State and local government agencies in the regulation of child care and the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations.
- j. Staff in part-time, full day, or track-out school-age care programs required to complete BSAC training shall do so within three months of becoming employed.

## **SECTION .2700 CRIMINAL RECORDS CHECKS**

### **10A CAR 09 .2701 SCOPE**

The rules in this Section apply to all child care providers. The PHHS Division shall determine if an individual is a qualified child care provider. An individual may work or be present in any child care facility during the time the individual holds a valid qualification letter after the Division's determination that the individual is a qualified child care provider.

### **10A CAR 09 .2702 DEFINITIONS**

For purposes of this Section:

- a. A "qualified child care provider" means an individual who the Division has determined is fit to have responsibility for the safety and well-being of children based on the criminal history.
- b. A "disqualified child care provider" means an individual who:
  - 1. the Division has determined is not fit to have responsibility for the safety and well-being of children based on the criminal history;
  - 2. is classified within the prohibited list held by the Division;
  - 3. the Division determines to be a habitually excessive user of alcohol, who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children;
  - 4. refuses to consent to a criminal history record check; or
  - 5. intentionally falsifies any information required to conduct a criminal history record check.
- c. A "qualification letter" or "qualifying letter" means the letter issued by the Division notifying an individual that he or she is a qualified child care provider;
- d. A "conviction" includes when a plea of guilty or no contest is accepted by the trial court, or entry of an order granting a prayer for judgment continued; and
- e. A "pending criminal charge" includes, but is not limited to, a charge that has been deferred pursuant EBCI Criminal Law.

## 10A CAR 09 .2703 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR CHILD CARE PROVIDERS

- a. In addition to the requirements in Rules .0302 and .1702 of this Chapter, a child care provider shall submit the following to the Division prior to the issuance of a license or prior to beginning employment:
  1. a signed and completed Authority for Release of Information form;
  2. fingerprint impressions submitted on the form(s) required by the PHHS Division; and
  3. if a child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence.
- b. If the child care provider has a criminal history of convictions, pending indictment of a crime, or pending criminal charges, he or she may submit to the PHHS Division additional information concerning the conviction or charges that the Division shall use in making the determination of the child care provider's qualification. The Division shall also consider the following in making its decision:
  1. length of time since conviction;
  2. whether the child care provider is currently on probation;
  3. nature of the offense;
  4. circumstances surrounding the commission of the offense or offenses;
  5. evidence of rehabilitation;
  6. number and type of prior offenses; and
  7. age of the child care provider at the time of occurrence.
- c. If the child care provider is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity or a person designated by the chief executive officer as responsible for the operation of the facility, shall complete the criminal history record check as specified in Paragraph (a) of this Rule.
- d. If a Letter of Intent to Operate is submitted to the PHHS Division, the person signing the Letter of Intent shall submit all forms as required in Paragraph (a) of this Rule.
- e. Child care providers must have a valid qualification letter prior to employment or living in the family child care home and the qualification letter must be kept on file at the facility for review by representatives of the Division.
- f. Child care providers found to be disqualified are not eligible for employment in child care until a qualification letter has been issued by the Division.
- g. Child care providers determined by the Division to be disqualified shall be terminated by the center or family child care home immediately upon receipt of the disqualification notice.
- h. Disqualification of a child care provider living in a family child care home shall be grounds for issuance of a summary suspension of the family child care home license in accordance with 10A CAR 09 .2207.
- i. Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial, or revocation of the license or any other administrative action or civil penalty permitted by law or rule. If an applicant appeals the disqualification, the child care provider shall not be employed during the appeal process.
- j. Operators shall include the criminal history mandatory reporting requirement in all new employee orientation information. Mandatory reporting requires all child care providers and household members who have incurred any pending charges, indictments or convictions (other than minor traffic offenses) since the last qualification letter was issued by the Division to notify the operator of such charges within five business days or before returning to work, whichever comes first. The operator shall notify the Division of any such pending charges, indictments or convictions within **one** business day of being notified.



- k. The qualification letter is valid for a maximum of three years from the date of issuance.
- l. Prior to the expiration date of the qualification letter, the child care provider shall complete and submit the forms listed in Paragraph (a) of this Rule.
- m. After a child care provider has been qualified, the Division may complete a new criminal history record check at any time when the Department of Social Services of neighboring counties or the EBCI Family Safety Program conducts an investigation that references the child care provider.
- n. Any individuals who live in the household who have had their 16th birthday after the initial licensing of a family child care home, shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within **five** business days.
- o. Child care operators must notify the Division of any new child care providers who are hired or moved into the home within five business days by submitting the form provided by the Division.

**10A CAR 09 .2704 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR  
NON-LICENSED CHILD CARE PROVIDERS- RESERVED FOR FUTURE  
CODIFICATION**

**SECTION .2800 RESERVED FOR FUTURE CODIFICATION**

**SECTION .2900 DEVELOPMENTAL DAY SERVICES**

**10A CAR 09 .2901 SCOPE**

- a. As authorized by C.C. 110B-88, the Division shall require all Developmental Day Centers, or child care center seeking to be certified as a developmental Day Center to utilize those processes as described in 10A NCAC 09 .2900
- b. Developmental Day Centers licensed under G.S.110-88(14) must provide proof of such certification to the Division annually.