DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION ADMINISTRATIVE CODE

CHAPTER 660-5-26
DAY CARE LICENSURE - CHILD CARE LICENSING AND PERFORMANCE STANDARDS FOR DAY CARE CENTERS AND NIGHTTIME CENTERS

660-5-26-.02 Licensing Procedures.

Authority to Perform Licensing Functions. The Commissioner of the State Department of Human Resources or his/her designee is authorized to perform licensing functions for day care centers and nighttime centers. Licensing functions may include but are not limited to approval or denial of the issuance of licenses, six month permits, and approvals, renewal of licenses and approvals, inspections, investigations, corrective or adverse actions, suspension and revocation of licenses, six month permits, and approvals.

(1) Application for a License.

(a) Child care (day care or nighttime care) shall not be provided or advertised prior to issuance of a license, six-month permit, or approval.

(b) Any person, group of persons or corporation may obtain an application form for a license to operate a child care center by contacting the Department of Human Resources. (See Code of Ala. 1975, Section 38-7-4)

(c) An application for a license to operate a child care center shall be made to the Department of Human Resources on the required form(s) and shall contain all information requested on the form(s). A separate application shall be submitted for each proposed center.

(d) An application for a license is not transferable from one person, group of persons, or corporation to another or from one location to another.

(e) The Licensing Application Attachment shall be submitted to the Department, on the required form, prior to a license, six-month permit, or approval being issued.

(f) Quality Rating Improvement System

1. The Quality Rating Improvement System (QRIS) is a voluntary program based on a systemic approach to assess, improve, and communicate the level of quality in early care and education programs in the state.

2. Initially, all licensed providers not on an adverse action will be enrolled as a participant in the QRIS program as a Star 1 rated facility. A licensed provider may choose to opt out of the QRIS program by providing the OHR Child Care Services Division written notice within sixty days of the adoption of these standards.

3. If a provider chooses not to participate in the QRIS system, no star rating will be assigned, and the provider will be indicated as a "non-participant".

4. All applicants for a license or for renewal shall indicate on the application in the space provided whether the applicant chooses to participate in the QRIS program or whether the applicant chooses to be a non-participant in the QRIS program. Participation in QRIS program is voluntarily, and the decision to be a non-participant shall have no effect on the license issued pursuant to these standards. The QRIS Star rating earned by a participating provider shall have no effect on the license issued pursuant to these standards.

5. A provider's decision regarding QRIS participation may only be changed when requested on the next Licensing Renewal Application.

(2) Prohibited Advertisement.

(a) No person, unless licensed or holding a six-month permit, may cause to be published any advertisement which solicits a child or children for care. To solicit a child or children for care means, among other similar actions or terms, to invite, appeal, plead, lure, beg, request, offer, suggest, promote, or implore. Both free and paid advertisement is prohibited. (See Code of Ala. 1975, Section 38-7-12.)

(b) Prohibited advertisement includes, but is not limited to, printed and published material; descriptive literature and aids; speeches, talks, and presentations; flyers; booklets and pamphlets; signs and posters; illustrations and depictions; newspaper, radio, television, magazine, Internet, and other media advertising; letters and direct mail advertising; and any materials used by agents. Prohibited advertisement also includes printed and illustrated material or descriptions on cups, mugs, pens, pencils, or other objects.

(c) The following activity does not constitute prohibited advertisement:

1. Advertisement using a name and address seeking employment applications for staff positions; provided that a license application has been filed with the Department and the advertisement includes the clearly visible phrase, "license application pending."

2. "Under Construction," "Renovation," or "Remodeling" signs (with or without name and address) on the premises; provided that a license application has been filed with the Department and the sign includes the clearly visible phrase, "license application pending."

3. A market survey to determine the need for child care in a locality. Using the name and address of the business or individual is permitted so long as it does not solicit a child or children for care or promote the business.

(3) Examination and Investigation of the Application.

(a) After receipt of the completed application, a representative of the Department of Human Resources will examine the premises proposed for the center and will investigate the person(s) responsible for the center.

(b) The examination and investigation will be based on the standards and regulations as prescribed and published by the Department.

(4) Disposition of the Application.

(a) When standards for the operation of a center have been met, a license will be issued.

(b) If an application is denied, the Department shall notify the applicant of the decision in writing, indicating the reason(s) for the denial.

(c) The applicant may withdraw the application either verbally or in writing.

(5) Six-Month Permit.

(a) The Department may, at its discretion, issue one six-month permit to allow the applicant/center reasonable time to become eligible for a full license. Before a six-month permit is issued by the Department, all standards shall be met with the exception of one half of the required equipment, indoor and outdoor, for each age group to be served. (See Rule 660-5-26-.12, for Required Equipment Lists.)

(b) The total number of children in the care of the center at any given time, including children on the premises (inside and outside), children in transit, and children on field trips or other center activities, shall not exceed the number specified on the permit.

(c) The age range of the children served shall not vary from the limits specified on the permit.

(d) The permit is not transferable from one person or group of persons or corporation to another, nor from one building or location to another.

(e) During the six-month permit period, the initial application for a license remains pending. A two year license will be issued when the center meets standards.

(f) If the application is denied for failure to meet standards during the six-month permit period, the center shall not continue to operate.

(6) Renewal of a License.

(a) Application for renewal of a license to continue operating a child care center shall be made to the Department at least thirty (30) calendar days prior to the expiration date of the current license, and shall be on the required form(s). It is the sole responsibility of the licensee to obtain the required form(s) and to submit the form(s) to the Department on time.

(b) A renewal of a license shall be issued, if, upon investigation and re-examination, the child care center continues to meet and maintain standards prescribed and published by the Department.

(c) If, upon inspection and re-examination, standards are not met, appropriate corrective or adverse action shall be instituted. (See Rule 660-5-26-.10, for additional information.)

(d) The center's license continues in effect until a decision is made by the Department on the application for renewal, provided that the application for renewal is timely (received at least thirty (30) calendar days prior to the expiration date of the current license) and sufficient (complete and accurate). (Code of Ala. 1975, Section 41-22-19.)

(e) If the application for renewal is not timely (not received at least thirty (30) calendar days prior to the expiration date of the current license) and sufficient (not complete and accurate), the center's license will expire on the expiration date shown on the license. If the licensee continues to operate the center after the expiration date, the licensee

will be reported to the District Attorney and the Attorney General for operating an unlicensed child care facility.

(7) Department Visits, Inspections, Investigations, Examinations, and Consultation.

(a) Visits to the center are made by representatives of the Department to determine if minimum standards are met, to investigate a complaint and to offer consultation.

(b) Pre-1icensing visits may be made by a department representative to determine compliance with standards. Pre-1icensing visits may be made by appointment.

(c) Annual visits made for the purpose of determining compliance with standards or investigating a complaint shall be made without prior notice.

(d) The applicant/licensee may request consultation.

(e) The licensee shall be informed of complaints of alleged licensing violations made to the Department against the center/licensee.

(f) The licensee/center staff shall not be informed of the identity of the complainant by the Department.

(8) Provisions of the License, Six-month Permit, or Approval.

(a) Licenses issued by the Department to day care centers and nighttime centers are valid for two years, as shown on the license, unless revoked or suspended by the Department or voluntarily surrendered by the licensee.

(b) The total number of children in the care of the center at any given time, including children on the premises (inside and outside), children in transit, and children on field trips or other center activities, shall not exceed the number specified on the license, permit, or approval.

(c) The age range of the children served shall not vary from the limits specified on the license, permit, or approval.

(d) The license, permit, or approval is not transferable from one person or group of persons or corporation to another, nor from one building or location to another.

(e) The Department and its authorized representatives shall have the right to inspect:

1. any child care facility seeking a license;

2. any child care facility seeking renewal of a license;

3. any child care facility which is operating under a license or six-month permit or approval.

4. Such inspection shall be made at any reasonable time, without prior notice, and may include the entire facility and grounds. Prelicensing visits may be made by appointment.

(f) The Department shall have the right to immediately suspend, limit, or restrict the license, permit, or approval of a child care facility when conditions hazardous to the health and safety of the children exist, including but not limited to:

1. The right to restrict, limit, or suspend specific activities provided by the child care facility, such as but not limited to: away-from-facility activities; transportation of the children; swimming.

2. The right to restrict or limit the use of specific areas of the facility, such as but not limited to: outdoor play areas; bathrooms; rooms/activity areas used by the children.

3. The right to reduce the licensed, permitted, or approved capacity of the facility due to restricted use of required space or bathroom facilities or lack of qualified staff to meet required staff-child ratios. (See Rule 660-5-26-.03 and Rule 660-5-26-.04, for requirements.)

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