

Family Child Care Registration Manual

(November 2016)

For use with

COMAR 13A.15 - Family Child Care
(As amended effective 7/20/15)

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.01 Registration—General Requirements

A. Requirement to Be Registered.

- (1) **Except as provided under §A(2) of this regulation, an individual may not operate a family child care home unless:**
 - (a) **Both the individual and the home meet the requirements for registration set forth in this subtitle; and**
 - (b) **The individual possesses a valid certificate of registration.**

INTENT: Maryland law requires family child care programs to be registered. Registration is a type of licensure, and it indicates that a program has met minimum child health and safety standards. The regulations contained in COMAR 13A.15.02.01 specify in detail what the registration requirements are. Unless exempt from these requirements, a family day care provider must be registered before she or he may provide child care.

Note: Operating a family child care home without a valid registration is a violation of Maryland law and may result in criminal prosecution.

- (2) **A family child care home is not required to be registered if the provider:**
 - (a) **Is a relative of each child;**
 - (b) **Is a friend of each child's parent or legal guardian and the care is provided on a non-regular basis of less than 20 hours a month; or**
 - (c) **Has received the care of the child from a child placement agency licensed by the Department of Human Resources.**

INTENT: Care of children by their relatives is a private matter. Informal arrangements made between friends or neighbors to care for each other's children on an occasional basis do not rise to the level of child care services appropriate for government regulation.

- (3) **In this subtitle, all requirements pertaining to a family child care provider shall apply equally to a family child care co-provider, except that the co-provider is not required to reside in the child care home.**

INTENT: If there is a co-provider, the registration certificate is issued to both the provider and the co-provider. This means that, for legal purposes, there is no distinction between the rights and responsibilities of the provider and the co-provider with respect to operation of the program. Therefore, both are considered to be fully responsible for complying with all applicable regulations under COMAR 13A.15.

B. Types of Registration. The office may issue:

- (1) **An initial registration, which may be issued on a provisional basis pursuant to Regulation .04A of this chapter; or**

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- (2) **A continuing registration, which may be:**
 - (a) **Issued on a provisional basis under Regulation .04A of this chapter;**
or
 - (b) **Placed on a conditional status under Regulation .04B of this chapter.**

C. A certificate of registration:

- (1) **May not be transferred to another individual or residence; and**
- (2) **Remains the property of the office.**

INTENT: A certificate of registration may be issued only to a specific applicant for operation at a specific location. Any change in the applicant or the location requires issuance of a new certificate. Similar to a driver's license, a certificate of registration continues to belong to the issuing agency (OCC) even though it is in the physical possession of the provider. The provider owns the right to operate that is conferred by the certificate, but does not own the certificate itself.

D. The provider shall display conspicuously the certificate of registration in a location where it can easily be seen and read by parents whose children are in the provider's care or who are considering placing their children in the provider's care.

INTENT: The certificate of registration must be plainly displayed so that parents and visitors can easily determine if the provider is authorized to operate a child care program at the home and, if so, the conditions under which that authorization has been granted (i.e., days and hours of operation, maximum capacity, etc.).

INSPECTION REPORT ITEM: "Certificate Conspicuously Displayed"

COMPLIANCE CRITERIA: The certificate is placed or posted where parents and other visitors to the home can readily notice, see, and read it.

ASSESSMENT METHOD: Observe the location and visibility of the certificate.

E. The provider shall surrender the certificate of registration to the office immediately when any of the following occurs or becomes effective:

- (1) **The provider closes the family child care home permanently;**
- (2) **The registration becomes invalid pursuant to §H(2) of this regulation;**
- (3) **The registration is revoked;**
- (4) **The registration is suspended; or**
- (5) **The initial registration expires, and:**
 - (a) **The application for an initial or a continuing registration is denied; or**
 - (b) **The provider has not applied for a continuing registration.**

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INTENT: Once a certificate of registration is issued, it confers a certain property right that cannot be taken away by the State without due process of law. However, the certificate document itself is State property and must be returned to the State if the provider's registration is suspended or revoked, or if the provider decides to close the home and quit doing child care.

F. Except as provided under §G of this regulation, a residence approved for use under a family child care registration may not also be used to operate a:

- (1) **Family child care program under a different registration; or**
- (2) **Child care program that is subject to the requirements of COMAR 13A.16 or 13A.17.**

G. A residence approved by the office before July 1, 2008, for the concurrent operation of more than one family child care program or more than one type of child care program may continue to be used to operate those programs, except that, while concurrent approvals are in effect, the office may not approve a request by the provider for:

- (1) **An increase in child capacity;**
- (2) **A change in the hours of operation;**
- (3) **A change in the ages of children served;**
- (4) **A change in the approved child care area; or**
- (5) **A variance to a regulation under this subtitle.**

INTENT: To "grandfather" residences with the concurrent operation of several programs which were in existence prior to 7/1/08, and to restrict certain modifications to those programs.

H. Residence of Applicant or Provider.

- (1) **Unless currently approved for the purpose, the office may not approve a residence for use as a child care home that is not the primary residence of the family child care registration applicant.**
- (2) **A family child care home registration is subject to revocation if the home is no longer the primary residence of the provider.**

.02 Initial Registration.

A. An application for initial registration shall be filed with the office by an individual who wishes to operate a registered family child care home and who:

- (1) **Is not currently a registered family child care provider; and**
- (2) **Has not been registered as a provider for at least 6 months before the date of application.**

B. An applicant for an initial registration shall:

- (1) **Complete an orientation to family child care regulations that is offered or approved by the office;**

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INTENT: The orientation process provides information about family day care registration requirements and the registration application process. The orientation is offered on-line at <http://earlychildhhod.marylandpublicschools.org/child-care-providers/licenising/orientations>

- (2) **Submit a completed application form, supplied by the office, for initial registration;**
- (3) **Submit a medical evaluation for the applicant and each resident in the home that:**
 - (a) **Was completed within 12 months before the date of application for registration;**
 - (b) **Was conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant; and**
 - (c) **Is signed or verified by the individual who conducted the evaluation;**

INTENT: A family child care provider and residents of the home must be free of any communicable disease that would prohibit the person from working with or being around children. The provider must be able to participate fully in a program for active youngsters. This might include lifting infants and young children, getting up and down from the floor, lively outdoor activities, and moving furniture. It may also include transporting children in a motor vehicle. Therefore, the person must be evaluated for any physical condition that might adversely affect his or her performance. See “Medical Report for Child Care” OCC 1204 form.

- (4) **Apply for a federal and State criminal background check at a designated office in the State;**
- (5) **Ensure that an application for a federal and State criminal background check is made at a designated office in the State by each:**
 - (a) **Resident in the home who is 18 years old or older;**
 - (b) **Individual paid to serve as the provider's substitute; and**
 - (c) **Paid employee of the family child care home who is 14 years old or older;**

INTENT: To ensure that OCC is aware of the criminal histories of the applicant, individuals living in the home, employees, and others who will have frequent contact with children in care. CBCs for employees 14 years old or older are requested to capture criminal histories of juveniles who may have committed crimes and charged as “adults”.

Notes:

- Whenever submitting a criminal background check (CBC) request, the Provider must include the appropriate OCC Regional Office authorization

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number on the CBC request form. Following is a list of the Regional Office authorization numbers:

<u>Authorization Number</u>	<u>OCC Regional Office</u>
1100000016	Region 1 (Anne Arundel Co.)
1100000020	Region 2 (Baltimore City)
1100000031	Region 3 (Baltimore Co.)
1100000042	Region 4 (Prince George's Co.)
1100000053	Region 5 (Montgomery Co.)
1100000064	Region 6 (Howard Co.)
1100000075	Region 7 (Allegany, Garrett, Washington Co.)
1100000086	Region 8 (Caroline, Dorchester, Kent, Queen Anne's, Talbot Co.)
1100000090	Region 9 (Somerset, Wicomico, Worcester Co.)
1100000101	Region 10 (Calvert, Charles, St. Mary's Co.)
1100000112	Region 11 (Cecil, Harford Co.)
1100000123	Region 12 (Frederick Co.)
1100000182	Region 13 (Carroll Co.)

- This process allows CBC results and subsequent "Alerts" to be sent to the child care provider and OCC.

- (6) **Submit a signed and notarized release form giving the office permission to examine records of abuse and neglect of children and adults for information about:**
- (a) **The applicant;**
 - (b) **Each resident in the home who is 18 years old or older;**
 - (c) **Each individual designated as a substitute; and**
 - (d) **If applicable, an additional adult; and**
 - (e) **If required by the office, any other individual with regular access to the child care area during the approved hours of operation;**

See "Release of Information" OCC 1260"

- (7) **As applicable, submit documentation that:**
- (a) **The home meets State and local fire, health, and zoning requirements; and**
 - (b) **If the home is located in a condominium or residence which requires homeowners' association membership, the applicant has homeowner's liability insurance coverage as required by Maryland law;**
- (8) **Submit documentation that the applicable training requirements specified in COMAR 13A.15.06.02 have been met; and**

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- (9) **Submit documentation showing that the home has met all applicable lead-safe environment requirements set forth in COMAR 13A.15.05.02.**

***Note:** The Provider may track progress in complying with the “Initial Registration” requirements, and prepare for the initial inspection by using the “OCC 1295 – Family Child Care Home Self-Assessment Guide”.*

- C. If, within 6 months after the applicant submits a completed application form, the office has not received documentation that all applicable requirements of §B of this regulation have been met, the office may consider the application void.**

.03 Continuing Registration

- A. Application for Continuing Registration. To obtain a continuing registration, a provider shall submit to the office before expiration of the initial registration:**

- (1) **A completed request, on a form supplied by the office, for continued registration;**

***INTENT:** Prior to expiration of the initial registration, the provider must apply to convert the certificate of registration to continuing (non-expiring) status. To provide sufficient time for application to be made, OCC shall furnish the provider with an application packet at least 120 days before expiration of the initial registration.*

***Note:** At least 120 days before current registration expiration, the Regional Office will transmit to the provider a "Request for Continuing Status" application packet. This packet serves as the 120-day notice of initial registration expiration. Additional notification will occur at least 60 days before registration expiration when the Regional Office Licensing Specialist contacts the provider to schedule the announced "registration conversion" inspection that must be conducted as part of the continuing registration application process. Use “*Universal Conversion from Initial to Continuing Cover Letter*” to transmit the application packet.*

- (2) **Documentation that the continued training requirements and the first aid and CPR certification requirements set forth in COMAR 13A.15.06.02B-D have been met;**
- (3) **A medical evaluation that meets the requirements of Regulation .02B(3) of this chapter for:**
- (a) **The provider;**
 - (b) **Each resident in the home who has child care responsibilities; and**
 - (c) **If applicable, the additional adult;**
- (4) **A completed and notarized release of information form that permits the office to examine records of abuse and neglect of children and adults for:**
- (a) **The provider;**
 - (b) **Each provider substitute;**
 - (c) **Each resident in the home who is 18 years old or older;**

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- (d) **If applicable, the:**
- (i) **Additional adult; and**
 - (ii) **Additional adult's substitute; and**
- (e) **If required by the office, any other individual with regular access to the child care area during the approved hours of operation.**
- (5) **Documentation that the family child care home has passed the most recent fire inspection required by the local fire authority having jurisdiction; and**
- (6) **Any other documentation required by law or regulation.**

INTENT: A continuing registration will not be issued until the OCC Regional Office has received and approved all required application-related documentation, including documentation that the home has passed a fire safety inspection by the appropriate fire authority.

Notes:

- *The Provider's Initial Registration expires after two years with no provision for renewal; therefore, a Continuing Registration must be issued prior to the expiration date of the Initial Registration. If all items required in §A above are not received prior to the Initial Registration expiration date, a Continuing Registration on Provisional status must be issued.*
- *The registration anniversary month and day must be noted in the remarks section of the registration.*
- *The "**Checklist for Family Home Continuing Application**" specifies all the forms and other documentation that the provider will need to submit to the Regional Office. The provider can either mail the completed application "**Home Request for Continuing Registration – OCC 673**" and all specified documentation, to the Regional Office, or the completed packet may be given to the Licensing Specialist at the time of the registration conversion inspection.*

B. Maintenance of Continuing Registration.

- (1) **By the end of each 12-month period after the date of issuance of a continuing registration, the provider shall submit to the office documentation that the continued training requirements set forth in COMAR 13A.15.06.02B and C have been met.**

Note: Compliance with this regulation is determined during each annual unannounced inspection. The previous full year, based upon the month and day of registration, is reviewed.

- (2) **By the end of each 24-month period after the date of issuance of a continuing registration, the provider shall submit to the office the items specified in**

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§A (3)—(6) of this regulation.

INTENT: *While a continuing registration does not expire, the provider must periodically update certain information to avoid an enforcement action which could result in the revocation of the registration.*

INSPECTION REPORT ITEM: *“Continuing Registration”*

COMPLIANCE CRITERIA: *All documentation required to maintain a continuing registration has been submitted.*

ASSESSMENT METHOD: *Review provider file to determine if all required documentation has been submitted.*

Notes:

- *By the end of each 24-month period following issuance of a continuing registration, the provider must provide the following to the Regional Office:*
 - *Medical evaluations (OCC Form 1204) for the provider, each staff member (if applicable), each resident who has child care responsibilities, and if applicable, the additional adult;*
 - *Notarized release of information forms (OCC Form 1260) that permits the Office to examine child abuse and neglect of children and adults for:*
 - *The Provider*
 - *Each staff member (if applicable)*
 - *Each provider substitute*
 - *Each resident in the home who is 18 years old or older*
 - *If applicable, the Additional Adult and Additional Adult’s substitute*
 - *Any other individual with regular access to children in care during the approved hours of operation*
 - *Evidence of current Fire inspection and any other documentation required by law or regulation such as well and septic, if applicable.*
 - *The Provider may either mail the items listed above to the Regional Office, or keep them on file at the home for presentation and review by the Licensing Specialist during an unannounced inspection visit.*
- *A criminal background check (CBC) does not need to be updated every 24 months unless the original CBC results were not fingerprint-supported. A person for whom non-fingerprint-supported CBC results*

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have been received will need to submit biennial "name-check only" CBC requests until such time (if ever) that the person's CBC results can be fingerprint-supported.

- *At least 30 days prior to the registration anniversary ate, mail or deliver to the Provider the “**Universal 24-Month Maintenance Cover Letter and Checklist**” form, OCC 674.*
- *If all required documentation is not received timely, encourage the Provider to comply just as Provider would if it was a noncompliance resulting from an inspection. **DO NOT PLACE PROVIDER ON A CONDITIONAL REGISTRATION SIMPLY FOR NON-RECEIPT OF THIS INFORMATION.** The Regional Manager will determine action to be taken based upon the length of time the Provider remains noncompliant.*

.04 Provisional and Conditional Status.

A. Provisional Status.

- (1) Except as provided in §A (2) of this regulation, to allow an applicant for an initial or a continuing registration additional time to meet all applicable requirements, the office may approve an initial or a continuing registration on a provisional basis for a period of up to 120 days after determining that the health and safety of the children in care are not in imminent danger.**
- (2) An initial registration may not be approved if the office has not yet received evidence that the applicant and, as applicable, each individual specified in Regulation .02B (5) and (6) of this chapter has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records.**
- (3) At the end of the provisional period, if all requirements for the initial or continuing registration are not met due to:**
 - (a) Failure by the applicant to take an action necessary to achieve compliance, the office shall deny the application for registration; or**
 - (b) Circumstances beyond the control of the applicant, the office may reapprove the provisional status of the registration for one or more additional periods of up to 120 days per period, except that provisional registration status may not be continued for more than 24 months after the start of the first provisional period.**
- (4) If the office denies a certificate of registration at the end of the provisional period, the applicant or provider does not have a valid registration and shall cease operating.**

***INTENT:** A registration on “Provisional” status permits the Provider to provide child care on a temporary basis even though certain necessary requirements have not been fully met. It grants a specified amount of time to meet those requirements. A registration may be issued with a provisional status*

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only if the unmet requirements do not represent a threat to the health, safety, or welfare of children in care.

Notes:

- *When removing an applicant from provisional status to registration, be sure to include the provisional time period(s) in the two-year expiration/anniversary date. For example:*
 - *The Provisional Registration was issued on February 22, 2016 for 120 days. Another “provisional” was issued on June 22, 2016 for another 60 days ending August 21, 2016. The Provider met all requirements on August 21, 2016. The registration would be issued with the start date of August 22, 2016 and calculate the expiration/anniversary date by using the 1st “provisional” dated February 22, 2016 which would result in an expiration/anniversary date of January 31, 2018.*
- *The Regional Office may conduct unannounced monitoring inspections of the Provider’s home during a provisional registration period.*

B. Conditional Status.

- (1) **If a provider who holds a continuing registration fails to remedy a violation as required, the office may place the registration on conditional status for:**
 - (a) **A period of up to 120 days; and**
 - (b) **Upon approval by the Agency's central office, an additional period of up to 120 days.**
- (2) **Upon placing a continuing registration on conditional status, the office shall issue to the provider a revised certificate of registration that states the:**
 - (a) **Placement of the registration on conditional status;**
 - (b) **Period of time of the conditional status; and**
 - (c) **Requirements for lifting the conditional status.**
- (3) **Immediately upon receipt of the revised certificate of registration, the provider shall:**
 - (a) **Remove from display in the home the certificate of continuing registration that was originally issued; and**
 - (b) **Display the revised certificate as required by Regulation .01D of this chapter.**
- (4) **If the provider satisfies all requirements for lifting the conditional status within the specified period of time, the office shall promptly:**
 - (a) **Discontinue the conditional status; and**
 - (b) **Notify the provider to redisplay the original certificate of continuing registration.**

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- (5) **If the provider fails to satisfy all requirements for lifting the conditional status within the specified period of time, the office may suspend or revoke the continuing registration.**

INTENT: After a continuing registration is issued, if a Provider fails to correct certain non-compliances, OCC may replace the continuing registration with a revised registration placing it on conditional status. Conditional status is issued for a specified period of time and sets forth specific requirements for reinstatement of the continuing registration. If the Provider has still failed to make the necessary corrections by the end of the specified timeframe, the continuing registration may be suspended or revoked.

INSPECTION REPORT ITEM: “Conditional Status”

COMPLIANCE CRITERIA: *The conditional registration is posted in the child care area in a manner that can be easily seen by parents and other individuals visiting the home.*

ASSESSMENT METHODS:

- *Observe to see if the conditional registration is posted.*
- *Observe the location of the conditional registration to determine if it is visible to parents and other individuals visiting the center.*

Note: *A Continuing Registration is placed on “Conditional” status as a last resort to encourage the Provider to come into compliance with regulations. Placing a provider’s continuing registration on conditional status is optional. Using the progressive discipline process, i.e., warning letters, compliance agreements, and intermediate sanctions, continue to be viable disciplinary options. If these instruments fail, moving on to suspension, emergency suspension, and revocation is appropriate without ever having placed a continuing registration on conditional status.*

.05 Resumption of Service.

A. An application to resume service shall be filed by:

- (1) **A registered provider who wishes to provide family child care at an address different from that specified on the current certificate of registration; or**
- (2) **An individual who was previously registered by the office as a provider and who wishes to reregister, if the last effective date of the previous registration is within 6 months of the application.**

B. The application to resume service shall meet all initial registration application requirements, except that:

- (1) **An abbreviated application form supplied by the office shall be used; and**
- (2) **The office may accept as applicable to the new application the:**

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- (a) **Individual's original completion of the orientation process under Regulation .02B(1) of this chapter;**
- (b) **Original medical reports submitted for the applicant and each resident in the home who will have child care responsibilities if the reports are based on medical evaluations completed within 12 months of the new application;**
- (c) **Results of the original criminal background checks conducted under Regulation .02B(4) and (5) of this chapter, if the new location is within the office's same licensing jurisdiction;**
- (d) **Results of the original child and adult abuse and neglect clearances conducted under Regulation .02B(6) of this chapter, if the clearances were completed within 12 months of the application; and**
- (e) **Individual's original completion of:**
 - (i) **Pre-service training requirements specified at COMAR 13A.15.06.02A; and**
 - (ii) **If applicable, approved continued training requirements specified at COMAR 13A.15.06.02B.**

***INTENT:** Because a registration certificate is issued to a specific location as well as to a specific person, a new application is required if the provider relocates to a different residence and wants to continue to provide child care services. The new residence must meet all requirements applicable to a first-time registration. However, since the applicant has previously met the requirements of these regulations, and OCC already has information about the applicant, some of that information can be accepted toward the new application.*

Notes:

- *Because a provider who wishes to re-apply at a new location or to resume providing child care after a break in service is already known to OCC, a short-form application called an “**Application to Resume Service**” (OCC 349) is used instead of the regular application. However, this option is available only to those who file the new application within 6 months from the date that the previous registration was closed.*
- *All approved training received by the provider is counted toward satisfaction of the initial registration training requirements specified by regulation.*
- *The original criminal background check is transferable to the new registration if the new residence is in the same OCC licensing region as the previous one. If the new residence is not in the same OCC region, a new background check application must be submitted. Under CJIS regulations, a criminal background check update can only be sent to the Regional Office through which the background check was originally*

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requested. Therefore, if a provider re-opens in a different licensing region without re-applying for a CBC, the update would be sent to the previous Regional Office instead of the current one. If a provisional registration at the new location becomes necessary because completion of the background check is delayed, the receiving Regional Office may issue the provisional on the basis of the background check results already on file at the previous Regional Office.

- *Provider and resident medical evaluations are transferable to the new registration if they were done within 12 months of the new application. If a medical evaluation is not current within 12 months, a new one must be submitted.*
- *A registration for a new address shall not be issued until there has been an inspection of the new residence by the Regional Office, a fire inspection, and a health inspection, if required, by the local health department.*
- *A registration to resume service at the same location shall not be issued until there has been an inspection by the Regional Office. The original Use and Occupancy permit and other current local government approvals may be transferred to the new registration application.*
- *Upon approving an application to resume service, the Office shall issue a new continuing registration certificate if the applicant has operated under a continuing registration within 6 months of the application.*

.06 Response of the Office to Application.

A. Upon receiving the completed application and all required documentation, whether for an initial registration or a continuing registration, the office shall determine compliance with the requirements of this subtitle by:

- (1) Evaluating the application and required documentation;**
- (2) Interviewing the applicant;**
- (3) Inspecting the home proposed for use as a family child care home;**
- (4) Evaluating the information provided by State and federal criminal background investigations; and**
- (5) Evaluating the information provided from records of child and adult abuse and neglect.**

INTENT: The Regional Office must assess all application materials submitted concerning the Provider, the residents in the home, and persons who will have child care responsibilities; and must conduct an inspection of the home to determine compliance with regulations.

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Notes:

- *Once a complete Initial or Continuing Registration application has been submitted, the Regional Office must assess it in its entirety to ensure that all pertinent application requirements have been met. Before an application can be approved, the home must also be inspected to ensure that all applicable requirements have been met. The Regional office has an obligation to the applicant to complete its review of the application and conduct the required inspection in an expeditious manner.*
- *When an applicant is ready for an “Initial Inspection”, the majority of the application requirements should have been met, (U&O, Fire, CBCs, Releases, Medicals, Provider Requirements, and Staff requirements, if applicable) leaving only the physical plant, certain program requirements, and certain health and safety requirements to check during the “Initial Inspection”. For special instructions see “*Conducting Initial Inspections*”.*

B. Upon completing the procedures in §A of this regulation, the office shall, within 30 days:

- (1) **Issue a certificate of registration to operate the family child care home in accordance with the provisions of this subtitle if:**
 - (a) **The application is complete;**
 - (b) **All required documentation has been received; and**
 - (c) **The office is satisfied that the applicant and the home meet the requirements of this subtitle;**
- (2) **Deny the certificate of registration if the office determines that the applicant or the home does not meet the requirements of this subtitle; or**
- (3) **Issue a provisional certificate of registration in accordance with Regulation .04A of this chapter.**

INTENT: Once the complete application has been evaluated and the home has been found to be in compliance with all applicable requirements, the Regional Office has an obligation to approve or deny the registration in an expeditious manner.

.07 Denial of a Registration Application.

A. The office may deny a certificate of registration if:

- (1) **The applicant, a resident, any substitute, or the home in which child care is to be provided fails to meet the requirements of this subtitle;**
- (2) **An evaluation of the application by the office reveals that the applicant reported false information;**
- (3) **The applicant has a documented history of serious or repeated regulatory violations of this subtitle or other regulations of any state concerning the care of**

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- children or adults that demonstrates an inability to provide for the health or safety of children;
- (4) **The applicant has had a certificate of registration, a child care center license, or a letter of compliance denied or revoked before the date on the registration application, unless the office is satisfied that the condition that was the basis for the denial or revocation has been corrected;**
 - (5) **The applicant prevents the office from completing its responsibilities for registration;**
 - (6) **Upon evaluating the physical condition of the home and surrounding premises, the office finds conditions that are unsafe or unhealthy;**
 - (7) **An evaluation of the medical report or other information about the applicant or a resident indicates that the:**
 - (a) **Physical or mental health of the applicant or resident may pose a risk to children; or**
 - (b) **Applicant is unable to care for children;**
 - (8) **In addition to the requirements set forth at §B of this regulation, an evaluation of the criminal record of the applicant, a paid additional adult, a paid substitute, or a resident in the home reveals that the individual has a criminal conviction, probation before judgment, or not criminally responsible disposition, or is awaiting a hearing for a criminal charge that indicates other behavior harmful to children;**
 - (9) **An evaluation of the information provided in records of abuse and neglect of children and adults reveals that the applicant, an additional adult, a substitute, or a resident is identified as responsible for abuse or neglect of children or adults, or is currently under investigation for alleged acts of abuse or neglect of children or adults;**
 - (10) **Based on an interview with the applicant or an evaluation of other pertinent information, the office finds evidence that raises reasonable doubt that the applicant can provide for the welfare of children in care; or**
 - (11) **The applicant is:**
 - (a) **Providing treatment foster care to a child in other than a pre-adoptive capacity; and**
 - (b) **Filing an application for initial registration as a family child care provider.**

***INTENT:** Under Maryland law, OCC's primary mission is to protect the health, safety, and well-being of each child in care. For this reason, OCC may disapprove a registration application if any part of the application has been falsified or if OCC has substantial reason to believe that the Provider, a condition in the home, or a person connected with the home may present a risk of harm to any child in care. Except under certain circumstances, a treatment foster parent may not be approved as a family child care provider.*

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Notes: *Reasons for denial of an application for registration are, but not limited to, the following:*

- **Reporting false Information:** *This includes falsification of any required documentation. As a basis for denial, this is generally used in combination with another basis, such as an unreported criminal history, a history of licensing violations, or a child abuse history.*
- **Previous regulatory history:** *A license or certificate for foster care, domiciliary care, or any other type of care has been revoked or suspended, and the compliance history as a caregiver shows an inability to provide for the health or safety of children.*
- **Refusal to comply:** *Examples include refusal to complete a required orientation session, refusal to submit required application documents, refusal to allow an inspection of the home to take place, refusal to apply for criminal background checks, or refusal to abide by the requirements of a compliance agreement.*
- **Denial or revocation of a child care license or registration.** *Generally, if the revocation resulted from chronic overcapacity, serious lack of supervision, neglect or abuse, the Regional Office will not approve another registration.*
- **Physical or mental health issues:** *The medical evaluation indicates that the applicant is physically or mentally incapable of providing child care. Or observation of and/or interviews with the applicant demonstrate that the applicant is physically or mentally incapable of providing appropriate care or supervision (e.g., applicant has difficulty moving around, is unable to lift small children, or admits to chronic intoxication or severe emotional disturbance).*
- **Criminal history:** *If the criminal background check (State or FBI) completed for the applicant, a resident, or any person who has or will have child care responsibilities reveals a conviction, pending charge, probation before judgment, or not criminally responsible disposition for certain acts or attempted acts, which include but are not limited to the following:*
 - *A crime involving: A child;*
 - *Cruelty to animals;*
 - *Domestic violence; or*
 - *A weapons or firearms violation of federal or state laws;*
 - *A sex offense (including prostitution and indecent exposure);*
 - *A violent crime classified as a felony;*
 - *Abduction or kidnapping;*

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- Abuse of a child or an adult;
 - Confinement of an unattended child;
 - Manufacturing, distributing, or dispensing a controlled dangerous substance;
 - Perjury;
 - Pornography;
 - Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or
 - Reckless endangerment.
- Child abuse and neglect: The Regional Office carefully evaluates each report of indicated abuse or neglect to determine:
 - The seriousness of the abuse or neglect;
 - Whether it was committed by the applicant or by someone else in the home;
 - Whether it indicates a potential risk to children in care; and
 - Whether the offender has undergone any rehabilitation.

The presence, by itself, of abuse or neglect charges does not automatically disqualify an applicant from being approved for a registration.

- Dual Licensure: Because of the degree of supervision that a child in treatment foster care typically needs, a caregiver who is a treatment foster care parent is not permitted to become registered as a family day care provider. However, an exception is made where each treatment foster care child in the home is there in a pre-adoptive capacity.

B. The office shall deny a certificate of registration to an applicant who has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

- (1) **A crime involving:**
 - (a) **A child;**
 - (b) **Cruelty to animals;**
 - (c) **Domestic violence; or**
 - (d) **A weapons or firearms violation of federal or state laws;**
- (2) **A sex offense;**
- (3) **A violent crime classified as a felony;**
- (4) **Abduction or kidnapping;**
- (5) **Abuse of a child or an adult;**
- (6) **Confinement of an unattended child;**
- (7) **Manufacturing, distributing, or dispensing a controlled dangerous substance;**
- (8) **Perjury;**
- (9) **Pornography;**

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(10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or

(11) Reckless endangerment.

C. If the office denies an application, the office shall notify the applicant in writing of the denial stating:

(1) The reason for denial;

(2) The specific regulation with which the applicant has failed to comply that is the basis for the denial;

(3) That the applicant is entitled to a fair hearing; and

(4) The procedure to be used if the applicant wishes to request a hearing to appeal the decision of the office.

INTENT: Under Maryland law, the Office must comply with due process requirements if it decides to deny an application. This means that the Office must inform the applicant why the decision to deny was made, of the applicant's appeal rights, and how those rights may be exercised.

Note: See 13A.15.14.03 Hearing Requests for the steps involved in appealing the denial of an application. Also, see the "Request for Hearing/Appeal" form (OCC 1281).

D. If an evaluation of criminal records or records of abuse and neglect of children or adults reveals that a substitute or an additional adult designated by the applicant may pose a risk to children in care, the office, instead of denying the registration certificate, may require the provider to designate another substitute or additional adult.

E. Denial Before Complete Application.

(1) The office may deny an application for registration at any point during the application process if, following evaluation of information received to that point, the office determines that a basis for denial exists as set forth in §A or §B of this regulation.

(2) If the office decides to deny the application before the application process is complete, the office shall send written notice of that decision to the applicant within 30 calendar days after making the decision.

INTENT: To spare the applicant unnecessary additional expense or effort, if the office concludes during the application process that the application cannot be approved, the office will terminate the process and advise the applicant accordingly and in an expeditious manner.

.08 Voluntary Surrender of Registration.

A. A provider may voluntarily surrender a family child care registration at any time by notifying the office.

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*INTENT: A registration is not considered as surrendered until the Provider informs the Regional Office in writing that the registration is being surrendered. The Provider must use the “*Voluntary Surrender of a Family Child Care Certificate of Registration*” form.*

Notes:

- *The Provider may choose to voluntarily surrender a registration certificate rather than face a suspension or revocation proceeding. However, the circumstances under which the registration was surrendered will be noted in the Provider’s licensing record and will be taken into account when re-applying for a registration in the future.*
- *If the proceeding would involve an allegation of child abuse or neglect, Child Protective Services and the police must, by law, continue the abuse or neglect investigation and make findings independent of the licensing agency even if the registration has already been surrendered.*

A. If a registration is surrendered under §A of this regulation:

- (1) **The office shall note in the family child care provider's file that the registration has been voluntarily surrendered; and**

INTENT: Whenever a Provider’s file is closed, the Regional Office must record the type of closure (i.e. withdrawal of application, expiration due to non-renewal, or voluntary surrender).

- (2) **The provider shall return the surrendered certificate of registration to the office.**

INTENT: All registration certificates are the property of the State of Maryland and must be returned to the Regional Office immediately upon being surrendered.