

Family Child Care Licensing Manual

(November 2016)

For use with

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

Table of Contents

COMAR 13A.15.03 MANAGEMENT AND ADMINISTRATION

.01 Advertisement	1
.02 Admission to Care	1
.03 Program Records	3
.04 Child Records	5
.05 Notifications	9
.06 Variances	12

COMAR 13A.15.03 Management and Administration

.01 Advertisement.

- A. **An individual may not advertise a family child care service unless the individual holds a current certificate of registration issued by the office.**

INTENT: A certificate of registration from OCC is required before an applicant may legally advertise child care services. Advertising a family child care home without a current certificate is a violation of Maryland law and a civil citation may be issued.

- B. **An advertisement of the family child care service by a provider shall:**

- (1) **Specify that the family child care home is registered; and**
- (2) **Include the registration number issued to the home by the office.**

INTENT: All advertisements must include the registration number assigned to the Provider.

.02 Admission to Care.

- A. **The provider may not admit a child to the home for child care or allow a child to remain in care unless the provider has received:**

- (1) **An emergency form for the child as required in Regulation .04A(1) of this chapter;**
- (2) **Unless the child is temporarily admitted or retained pursuant to §D of this regulation:**
 - (a) **A written report of a health assessment of the child on a form supplied or approved by the office; and**
 - (b) **Evidence, on a form supplied or approved by the office, that the child has had immunizations appropriate for the child's age that meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene.**

INTENT: A child may not begin care until current and complete health, immunization, and emergency information for the child is received.

INSPECTION REPORT ITEM: "Admission to Care"

COMPLIANCE CRITERIA: On or before the first day that the child begins care, the Provider received the following items, each of which is complete and signed by the child's parent or guardian and, if indicated, by a licensed health practitioner: "Emergency Form" (OCC 1214) "Health Inventory" form (OCC 1215) and "Immunization Certificate" (DHMH 896)

ASSESSMENT METHOD: Review children's files to determine if and when the required documentation was received.

COMAR 13A.15.03 Management and Administration

***Note:** Federal law under the Americans with Disabilities Act (ADA) prohibits child care providers from denying admission to a child with a disability solely on the basis of that disability. For more information about how ADA requirements may apply to the Provider's program, see "Child Care and the ADA."*

- B. If a child is younger than 6 years old at the time of admission to the home, the provider may not allow the child to remain in care at the home if the parent does not, within 30 days after the child's admission, submit evidence to the provider on a form supplied or approved by the office that the child has received an appropriate lead screening in accordance with applicable State or local requirements.**

***INTENT:** To help decrease the damaging effects of lead poisoning in children, Maryland law requires each child under the age of 6 years to have an appropriate lead screening within 30 days after first entering a child care program.*

***INSPECTION REPORT ITEM:** "Lead screening"*

***COMPLIANCE CRITERIA:** Within 30 days after admitting a child younger than 6 years old, the Provider received a completed and signed "Health Inventory" form (OCC 1215) or equivalent form which contains all information as required on the Health Inventory.*

***ASSESSMENT METHOD:** Review children's files to determine if and when the Provider received the required documentation.*

***Notes:** The child's parent is responsible for making sure the child has received a lead screening. The child's physician is responsible for ensuring that the child received the appropriate lead screening. The Provider's only responsibility is to make sure the Provider receive documentation of the screening performed by the child's physician within 30 days after the child first attends care.*

- C. A family child care provider who also provides treatment foster care in the home may not admit a child for treatment foster care in the home unless the child is being placed in the home in a pre-adoptive capacity.**

***INTENT:** Because of the degree of supervision that a child in treatment foster care typically needs, a family child care provider who is also licensed as a treatment foster care parent is not permitted to admit a child for treatment foster care unless the child will be adopted by the provider.*

D. Temporary Admission.

- (1) **A provider may temporarily admit or retain a child in care if the child's parent or guardian is unable to provide documentation of immunization as required in §A(2)(b) of this regulation.**

COMAR 13A.15.03 Management and Administration

- (2) **For a child to be temporarily admitted or retained in care, the parent or guardian shall present evidence of the child's appointment with a health care provider or local health department to:**
 - (a) **Receive a medical evaluation to include, if applicable, a lead screening;**
 - (b) **Receive a required immunization;**
 - (c) **Acquire evidence of age-appropriate immunizations on a form approved by the office; or**
 - (d) **Reconstruct a lost record.**
- (3) **The date of appointment, set pursuant to §D(2) of this regulation, may not be later than 20 calendar days following the date the child was temporarily admitted or retained in care**
- (4) **A provider shall exclude from care a child who has been temporarily admitted or retained in care if the parent fails to provide the documentation required by §A(2) of this regulation within 3 business days after the date of the appointment made pursuant to §D(2) of this regulation.**

.03 Program Records.

The provider or substitute shall:

- A. **Negotiate and maintain a written agreement with the child's parent that specifies:**
 - (1) **The fees for and provision of care;**
 - (2) **The provider's child discipline policy;**
 - (3) **The presence at the home of any pet animals;**
 - (4) **If applicable, the use of volunteers in the family child care program; and**
 - (5) **If overnight care is to be provided to the child, the sleeping arrangements approved by the parent;**

***INTENT:** For each child admitted to care, the Provider must develop and keep on file a written service agreement with the parent that, at a minimum, establishes what child care services the Provider offer and how much the Provider will charge the parent for those services.*

***INSPECTION REPORT ITEM:** "Program Records"*

***COMPLIANCE CRITERIA:** For each child in care, there is a written service agreement that:*

- *Addresses the services provided and the cost of those services, and*
- *Was signed and dated by the parent/guardian and the Provider on or before the date of the child's admission to care.*

***ASSESSMENT METHOD:** Review children's files to determine if written service agreements, signed and dated by both parties, are present. (Only one written agreement is required if parent/guardian have more than one child in care.)*

***Notes:** The following are some other topics the provider may wish to address in the service agreement:*

COMAR 13A.15.03 Management and Administration

- *Child rest periods*
- *Bringing food, toys, supplies, and equipment from home*
- *Independent play outside the home by a child who are old enough to attend school*
- *Addressing disruptive child behavior and the Provider's child guidance/discipline policies*
- *Policy on transporting children in care (including to and from school, if appropriate)*
- *Responsibility for making sure the child is properly dressed*
- *Policy on administering medication*
- *Whether or not smoking occurs in the home*
- *Exclusion from care for acute illness*
- *Closure due to holidays, vacation, bad weather*
- *Notification of service termination*

- B. For each child enrolled in care, maintain a written record of each day's attendance in care that is verified by the child's parent;**

INTENT: The Provider must maintain a daily record of all children in attendance.

INSPECTION REPORT ITEM: "Program Records"

COMPLIANCE CRITERIA: There is a current and complete daily attendance record.

ASSESSMENT METHOD: Review Provider's records to determine if a daily attendance record is kept.

Note: Parental verification of attendance was mandated for purposes related to programs with children participating in the Subsidy program. Providers must submit attendance verification with their invoices for payment. Providers may develop various processes for parent verification which are acceptable.

- C. Maintain a record of each day on which a substitute provides care for more than 2 hours;**
- D. If applicable, maintain a record of each volunteer in the family child care program that includes:**
- (1) The date on which the volunteer received the child health and safety orientation required in COMAR 13A.15.06.05A(2); and**
 - (2) If the volunteer is present at the home more than once per week:**
 - (a) A brief statement of the volunteer's duties; and**
 - (b) A medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer's duties;**

COMAR 13A.15.03 Management and Administration

E. Document that, on or before the date of a child's admission to care, the child's parent was given, or was advised how to obtain information that is supplied by the office concerning:

- (1) **Consumer education on child care; and**
- (2) **How to file a complaint with the office against a child care provider.**

***INTENT:** Parents need information about child care and how to file a complaint against a child care provider. The “**Guide to Regulated Child Care**” contain that information and must be made available and accessible for parents to reference. The provider may display the guide for reference purposes, give a copy of the guide to the parent, or tell the parent how to locate it on the OCC website.*

***INSPECTION REPORT IEM:** “Program Records”*

***COMPLIANCE CRITERIA:** A copy of the guide is displayed where it can be seen and used for reference by parents, or the Provider has documented that the guide was given to the parent or that the parent was told how to locate the guide on the OCC website. Documentation may be in any form convenient to the Provider.*

***ASSESSMENT METHOD:** Observe to identify if and where a display copy of the guide is available for parent reference, or review documentation that the guide was given to the parent, or that the parent was told how to locate the guide on the OCC website.*

F. Record the date and time of each fire evacuation drill and emergency and disaster drill required by this subtitle; and

G. Maintain each document and record required by this regulation for at least 2 years after its creation.

.04 Child Records.

A. The provider shall:

- (1) **Maintain emergency information for each child on a form supplied or approved by the office;**

***INTENT:** For each child, the Provider must know whom to contact in an emergency involving the child.*

***INSPECTION REPORT ITEM:** “Emergency Forms”*

***COMPLIANCE CRITERIA:** The Provider have a completed emergency information form on file for each enrolled child. The form is an **OCC 1214 “Emergency Form** or an equivalent document that has been approved by the Office for use.*

COMAR 13A.15.03 Management and Administration

ASSESSMENT METHOD: *Observation that a completed form is present for each child.*

- (2) **Keep the emergency forms for the children who currently are in the provider's care in a readily accessible location, including taking the forms when taking the children away from the home;**

INTENT: *The Provider must be able to use the information on the emergency forms in the event of an emergency. All emergency forms must always be readily available for immediate use in case of a child-related emergency.*

INSPECTION REPORT ITEM: "Emergency Forms"

COMPLIANCE CRITERIA:

- *At all times while the children are at the Provider's home, all emergency forms are in a location that is within or immediately accessible to the approved child care area.*
- *The emergency forms must be located so that they are accessible to the Provider's substitute and additional adult, if applicable, as well as to the Provider.*
- *For each child participating in an off-site activity, the child's emergency form is brought along on the activity.*

ASSESSMENT METHOD:

- *On-site - Observation of where the forms are located in relation to the child care area.*
- *Off-site - Observation that the forms are brought along, or discussion with the Provider to determine if and how the forms are taken to an off-site activity.*

- (3) **Arrange to have the form for each child updated as needed, but at least annually, and signed and dated by the parent.**

INTENT: *All information on the emergency form must be current so that the Provider can contact the child's parent, authorized adult, or physician.*

INSPECTION REPORT ITEM: "Emergency Forms"

COMPLIANCE CRITERIA: *The date of the parent's signature or initials on the emergency form is no more than 12 months prior to the previous date.*

ASSESSMENT METHOD: *Observation of each emergency form to determine date of last parent update.*

COMAR 13A.15.03 Management and Administration

A-1. Before the provider or substitute permits a child to:

- (1) Swim or wade, the provider shall obtain written approval from the child's parent on a form supplied or approved by the office;
- (2) Travel to or from school or a school transportation site without adult supervision, the child's parent and the provider shall agree in writing that the child can travel safely without adult supervision;
- (3) Be transported in a vehicle by the provider or substitute, the provider shall obtain written permission from the child's parent to transport the child;
- (4) Participate in an activity out of the home that is supervised by the provider or substitute, the provider shall obtain written approval from the child's parent on a form supplied or approved by the office;
- (5) Participate in a supervised activity out of the home without the provider or substitute, the provider shall obtain written permission from the child's parent for the child's participation; or
- (6) Participate in a service or activity conducted on the premises of the family child care home by an independent contractor, the provider shall obtain from the child's parent written permission for the child's participation.

***INTENT:** Parents/Guardians must always know when their child participates in activities away from the Provider's home and they must approve the child's participation.*

***INSPECTION REPORT ITEM:** "Child Records"*

***COMPLIANCE CRITERIA:** The Provider has written parental permission for each child who participated in an off-site activity that was signed and dated prior to the activity.*

***ASSESSMENT METHOD:** Review child records to determine if written consent forms, signed and dated by the parents/guardian, are present.*

***Note:** For sample permission slips see forms "[Permission Slip – Offsite Activities](#)" and "[Permission Slip – Swimming/Wading Activities](#)"*

B. During the period of a child's enrollment and for 2 years after the child's disenrollment, a provider shall maintain a file for each child that includes records of:

- (1) The name, current address, and home and work telephone numbers of the parent;
- (2) The child's health assessment, immunizations, and allergies, if any, to include:
 - (a) If the child is younger than 6 years old, evidence that the child has received an appropriate lead screening as required by State or local law; and

COMAR 13A.15.03 Management and Administration

- (b) **If the child is enrolled in school, parental permission for the school to release the child's health information to the provider;**
- (3) **Acute illnesses that required excluding the child from care under COMAR 13A.15.11.02B;**
- (4) **An injury or accident that is required by Regulation .05B of this chapter to be reported;**
- (5) **Child medication records as required by COMAR 13A.15.11.04; and**
- (6) **Written information concerning the child's individual needs that is supplied by the child's parent at or before the child's admission to care and is:**
 - (a) **Used by the provider to meet the child's individual care needs; and**
 - (b) **Reviewed by the provider and the parent at least every 12 months after the child's admission to care.**

INTENT: *The Provider must maintain a written file for each child that contain items noted in (1) – (6) of this regulation.*

INSPECTION REPORT ITEM: *“Child Records”*

COMPLIANCE CRITERIA:

- *For each child, the Provider has a file that contains the following completed items:*
 - *Emergency Form (OCC 1214)*
 - *Health Inventory Form (OCC 1215) with Blood Lead Test Certificate (DHMH Form 4620) Children born on or after January 1, 2015 must have blood lead test at age 12 months and again at age 24 months.*
 - *Medication Administration Form (OCC 1216) and OCC 1216-A Seizure Medication Administration Authorization or 1216-B Medication Incident Reporting Form, if applicable.*
 - *Immunization Certificate form (DHMH 896)*
- *For each child, the file also contains the following:*
 - *If applicable, documentation of each injury or accident involving the child. (see Accident/Injury Record)*
 - *Documentation that the Provider and the child's parent/guardian have discussed particular needs the child may have, and the discussion occurred on or before the first day of care and within every 12 months that the child remained in care.*
 - Note:** *This documentation is found on the Emergency Form (OCC 1214) and additional information is completed by the parent/guardian on the Health Inventory Form (OCC 1215)*

ASSESSMENT METHOD: *Review each child's file for appropriate documentation.*

COMAR 13A.15.03 Management and Administration

- C. A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly from another registered family child care home, a licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §B(2) of this regulation.

.05 Notifications.

The provider or substitute shall:

- A. Within 24 hours of its occurrence, notify the office of:
- (1) The death of a child, if the child died:
 - (a) While in the care of the provider or substitute; or
 - (b) Of a contagious disease; and
 - (2) Any injury to a child that occurs while the child is at the family child care home in the care of the provider or substitute that results in:
 - (a) The child being treated by a medical professional;
 - (b) The child being admitted to a hospital; or
 - (c) The death of the child;

INTENT: The Regional Office must be notified of a child's serious injury or illness, or death while in care, within one working day of its occurrence.

INSPECTION REPORT ITEM: "Notifications"

COMPLIANCE CRITERIA: Each incident involving injury to a child that needs professional medical attention, or death from an injury while in care, or death due to a contagious disease is reported to the Regional Office within 24 hours.

*ASSESSMENT METHOD: Comparison of serious incident report(s) (see **Reportable Child Incident** OCC Form 300) received from the Provider with reports/entries the Provider made into children's records regarding the date, time, and nature of each serious incident.*

- B. If a child has an injury or accident while in attendance:
- (1) Report immediately to the child's parent any serious injury or accident; and
 - (2) Report any nonserious injury or accident to the child's parent on the same day it occurs;

INTENT: The Provider must notify parents of any injuries or accidents involving their children so that they can seek proper medical attention as necessary. The Provider must also maintain a record of each child injury and accident to help parents in providing appropriate details to the child's physician and to provide information to the Provider's liability insurance carrier in case the parents file a liability claim.

COMAR 13A.15.03 Management and Administration

INSPECTION REPORT ITEM: “Notifications”

COMPLIANCE CRITERIA:

- *The provider notifies the parent:*
 - *Immediately if the injury or accident is serious, or*
 - *By the end of the same day if the injury or accident is not serious.*
- *Each injury or accident involving a child is recorded in the child’s file.*

ASSESSMENT METHOD: *Review of children’s files to determine whether there is documentation of if and when parental notification occurred. (see [Accident/Injury Record](#))*

C. Notify the office immediately of any change that might affect the status of the registration, such as:

- (1) A change in residents, operation, telephone number, or the provider's residence;**
- (2) A pending criminal charge against:**
 - (a) An individual who has responsibilities for supervising children in care; or**
 - (b) A resident in the home; or**
- (3) Any other situation involving the home that may present a risk to the health, safety, or welfare of children in care there, including, but not limited to, a report of domestic violence or the issuance of a protective order involving the provider or a resident in the home;**

INTENT: *A registration is approved on the basis of a specific set of circumstances pertinent to the Provider and the Provider’s home. The Provider must notify the Regional Office promptly if any of those circumstances changes materially or in a way that might present a risk to any child in the Provider’s care.*

INSPECTION REPORT ITEM: “Notification of Changes”

COMPLIANCE CRITERIA: *Each change that may affect the operation of the Provider’s program or present a risk to children is reported promptly to the Regional Office.*

ASSESSMENT METHOD: *Observation to determine if there has been any change that has not been reported.*

Notes: *If the Provider change residence during the period of registration, the registration becomes invalid. The Provider must notify the Regional Office in advance of any change in residence. The Regional Office will work with the Provider to expedite the processing of the “Resumption of Service” application. However, the Provider will not be issued a new registration until there has been a health inspection (if the Provider have private water and sewer), a fire inspection, and a home inspection of the Provider’s new residence by the Office.*

COMAR 13A.15.03 Management and Administration

Requirements for applying for a Resumption of Service due to change of address are set forth at Regulation 13A.15.02.05.

- D. Within 5 working days after an existing resident becomes 18 years old, or after there is a new resident in the home who is 18 years old or older:**
- (1) Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children and adults for information about the resident; and**
 - (2) Ensure that the resident applies for a federal and State criminal background check; and**

ASSESSMENT METHOD: Review of documentation received at the Regional Office.

- E. Within 15 working days after notifying the office of a new resident, submit to the office:**
- (1) A medical report on the resident, on a form supplied or approved by the office, that is based on a medical evaluation completed within the previous 12 months; or**
 - (2) Evidence that a medical evaluation of the resident has been scheduled; and**

INTENT: (D and E of this regulation) For each resident, the Provider must submit timely documentation to the Regional Office showing that the resident does not present a potential health or safety risk to children in care.

INSPECTION REPORT ITEM: "Notification of Changes"

COMPLIANCE CRITERIA: Within 15 days after notifying the Regional Office of a new resident, the Provider submitted the following items:

- *A completed "Medical Report for Family Child Care" form (OCC 1258) for the resident, or documentation that a medical evaluation has been scheduled, and*
- *If the new resident is 18 years old or older, a completed:*
 - *"Release of Information" form (OCC 1260), and*
 - *Acknowledgement of application for a State and federal criminal background check.*

ASSESSMENT METHOD: A review of individual's file for evidence of required documents.

- F. When the provider plans a temporary absence of more than 2 hours, notify the parents of the children in care in advance that a substitute will be caring for the children during the provider's absence.**

COMAR 13A.15.03 Management and Administration

- G. Within 10 business days of receiving notice of a contaminated drinking water supply, send a written notice of the drinking water contamination to the parent or legal guardian of each child enrolled that:**
- (1) Identifies the contaminants and their levels; and**
 - (2) Describes how the provider will furnish uncontaminated drinking water for children in care until the original water supply is determined by the appropriate authority to be safe for consumption.**

.06 Variances.

A. The office may not:

- (1) Waive a regulation; or**
- (2) Grant a variance that diminishes safeguards to a child's health, safety, or well-being.**

INTENT: Under Maryland law, OCC has no authority to grant the Provider an exemption from any regulation. All regulations under COMAR 13A.15 exist primarily to protect the health, safety, and welfare of each child in care. Therefore, OCC will only grant a variance that would not diminish that protection.

B. The office may grant a variance:

- (1) If the provider presents clear and convincing evidence that a regulation is met by an alternative that complies with the intent of the regulation for which the variance is sought; and**
- (2) For a limited period of time as specified by the office or for as long as the certificate remains in effect and the provider continues to comply with the terms of the variance.**

INTENT: A variance is an acceptable way of meeting the intent of a regulation without meeting the regulation's literal requirements. If the Provider cannot reasonably meet a regulation's literal requirements, the Provider may request a variance from the Regional Office. In making the Provider's request, the Provider must propose an alternative and demonstrate how the alternative will fully satisfy the regulation's intent.

INSPECTION REPORT ITEM: "Variances"

COMPLIANCE CRITERIA: *If applicable, the Provider is in compliance with terms of the variance.*

ASSESSMENT METHOD: *If applicable, a review of the terms of the variance.*

Notes: *To request a variance, the Provider must submit a completed **Variance Request form (OCC 1213)**, along with any relevant supporting documentation, to the Regional Office.*

COMAR 13A.15.03 Management and Administration

- *If the variance is granted, it has the same force and effect as the regulation, and the Provider must comply fully with all of its terms and conditions.*
- *Before inspecting the Provider's home, the Provider's Licensing Specialist will review the Provider's file to see if a variance is in effect and, if so, review the nature and duration. If a variance is in effect, the Licensing Specialist will determine during the inspection if the Provider and the home comply with the terms of the variance.*
- *If the Provider is not in compliance with the terms of the variance, a noncompliance is cited, and Provider will be required to correct it within a specific timeframe.*

- C. Within 30 calendar days of receiving a completed request for a variance, the office shall notify the provider that the variance has been granted or denied.**

***INTENT:** The Provider is responsible for submitting all information and documentation needed by the Regional Office to reach a decision on the variance request. Until the Regional Office has received all relevant information, the variance request is not complete. Once the request is complete, the Regional Office is responsible for making a decision about the request and informing the Provider of the decision in an expeditious manner.*

***Note:** The Regional Manager will ensure that the decision is recorded on the Variance Request form and sent to the Provider.*

- D. If a variance request is denied by a regional office of the Agency:**
- (1) The provider may appeal the denial to the Agency's central office; and**
 - (2) The Agency's central office has the final determination of whether or not a variance is granted.**

***INTENT:** If the Provider believes that an adverse decision by the Regional Office was unfair or in error, the Provider may appeal the decision to the OCC Chief of the Licensing Branch. If the Provider is not satisfied with the Chief's decision, the Provider may appeal further to the OCC Director. Appeals to the Chief of Licensing and the OCC Director may be made verbally or in writing.*

***Notes:** If the Provider wants to appeal a variance denial made by the Regional Manager, the Regional Manager must:*

- *Give the Provider the name and telephone number of the Chief of Licensing, and*
- *Forward to the Chief of Licensing a copy of the variance request and all pertinent supporting documentation, with a written explanation of the basis for the Manager's denial of the request.*