



Office of Child Care

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**Office of Child Care Advisory Council
REGULATION MEETING AGENDA
Friday, November 1, 2019**

This is an agenda that is *flexible* depending on those in attendance and the regulations being discussed.

1:00-1:15pm

Welcome and Introductions

*Review Guidelines/Goals of Council (language): **Advise and counsel the Office of Child Care, review proposed regulations, review issues and problems relating to care of children and suggested priorities for consideration by OCC and identify interdepartmental issues of importance to child care providers and users that should be addressed by OCC and other state agencies.***

We are all here to review the proposed Office of Child Care Licensing Regulations only. Any conversations off the topic of these regulations will be tabled for further discussion at a future OCC Advisory Meeting.

1:15-2:00

Regulation Review:

Each person will have 3-5 minutes to provide feedback on the regulations as posted in the Maryland Register

2:00-3:00

We will address each regulation mentioned and discuss what changes are requested, rationale from opponents and from proponents

Adjournment



**Office of Child Care (OCC)
Advisory Council
Proposed Licensing Regulation Meeting
Minutes
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AGENDA ITEMS	DISCUSSION OUTCOME	
Attendees	Council members:	Jennifer Nizer, Chris Peusch, Debbie Moore (sitting in for Jacqueline Grant), Aletheia McCaskill (sitting in for Crystal Barksdale), and Diane Mellott, Joann Jamison, Jennifer Arniz, Ruby Daniels, Shay Gurry, Steve Rohde
	Guests:	Cynthia Poindexter, Linda Owen, Michelle Green, Shaun Rose, G. Shabazz, Lacey Tsonis, Lynn Fleetood, Eleni Bokas, Patrick Leist, Nancy Anselm, Rebecca Hancock, Leslie Everhart, Roy Lyles, Terryce Lyles, Stephanie Schaefer.
	MSDE Staff:	Manjula Paul, Rene' Williams, Tara Bartosz & Louis Valenti
Welcome And Opening Remarks	<p>Steven Hicks MSDE went to a hearing with ALER and that's a legislative body that oversees the regulations that we put forward. As you know, in December of 2017, a revised set of regulations was sent to the school board and approved for licensing.</p> <p>Since then, we went out for comments once responded to those comments, made revisions. None of them were substantial, so we needed to bring them back to the board, which we did. Currently, we're out for public comment. I hope that you've had the opportunity to read the revised licensing regulations since they went to the board that time last spring. And now that they're published in the register, I hope you're sending in your comments for that through the official mechanism that we have set up. When we went before the AELR, they had a few questions about those regulations that were published in the register.</p> <p>We've been trying to be responsive to them because they had a few issues that they need more clarification with and they wanted an opportunity for our stakeholders. You all to have another chance to give some and provide some input. So that's why we're meeting here today. We're looking forward to hearing your testimony and then engaging in a conversation.</p> <p>Jennifer Nizer What we do want to do before we start so that we can hopefully address some of the things that you may have to change what you're going to say or what you're thinking as we go forward. We have been looking at the public comments and we did want to bring forward today some of the proposed changes that we will be making prior to this meeting</p>	
Review Guidelines/Goals of Council	<p>While this was not discussed at the last meeting, as a reminder:</p> <p>The purpose of the OCC Advisory Council is to:</p> <ul style="list-style-type: none"> Advise and counsel the Office of Child Care; Review regulations proposed by state agencies regulating child care; Review issues and problems relating to care of children and suggested priorities for consideration by the Office of Child Care; and Identify interdepartmental issues of importance to child care providers and users that should be addressed by the Office of Child Care and other state agencies. 	



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	<p>The Council meetings are “open” meetings but not “public” hearings. What this means is that the meeting is open to anyone who would like to attend. However, it is not a “public” meeting, in that the topics of discussion are limited to only those items on the Agenda. OCC Advisory Council meetings are not the appropriate forum to share concerns or complaints.</p> <p>The Agenda for each meeting is set prior to the meeting in consultation between the Department and the Chairperson for the Council. A Council member who would like to have an item considered for the agenda should make the request no later than two weeks prior to the meeting by contacting Tara Bartosz@ tara.bartosz@maryland.gov or Chris Peusch, mscca1@comcast.net. The Department will share information as specified on the Agenda set for the meeting.</p> <p>After all items on the Agenda are concluded, the Council meeting will be opened to “Other Business.” This will allow for discussion of items not necessarily related to those on the Agenda. To ensure an equal amount of time for participation, each speaker will be asked to limit their thoughts and comments to no more than three minutes. Comments made during this time should be succinct, specific and of interest to the Council members.</p> <p>Places at the table are reserved for Council members only. Therefore, non-member visitors attending the meetings should sit at the tables indicated for guests until the OCC Advisory Council chair invites visitors to sit in any remaining seats at the table.</p> <p>Comments and remarks that do not coincide directly with Agenda items may not be shared until the meeting is opened to “Other Business”.</p>
Powerpoint	See attached PPT Presentation
	Public Testimony
Shaun Rose	<p>I appreciate the fact that you have been going back to these regulations and looking for, compromises that can be made. I think we understand that you have objectives that you need to accomplish through regulations. I think using this forum for talking through the concerns that are raised when you add regulations can be very helpful. I think we saw some positive signs that the last OCC advisory meeting where we were talking through regulations and then hopefully we don't have to get to this point where we need to, really be fighting at the end because hopefully by the time we get to the end it could go much more smoothly. But I do appreciate the fact that that in the last week you've really been looking at the comments we made and made a number of I think very positive changes. The changes that you went through, I think address many of our concerns. I think just to go through a couple of, of comments.</p> <p>You did say on the first one about the fraud, about being able to deny or revoke a license that you could take away a license for any reason. I don't know if that was just misspeaking but I think it's for fraud and that means if somebody submits something that's false with the intent to deceive the office, that you could lose your license for that. And I don't think we're fighting against that. We just don't want it to be broader than fraud. If you're not doing it to try to trick somebody or full someone, then you shouldn't be at risk of losing your license. for the staff requirements.</p> <p>You talked about the ADA and breastfeeding that you'd look in a future, a set of regulations to possibly make that also. So that we'd have 90 days so that our staff, we can on-board them and then have time to work those trainings into their schedules. I think it's going to be important moving forward, especially given the state of childcare that, businesses are very stretched and their ability to</p>



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	<p>stay in business is in jeopardy where we're dealing with increased minimum wage. We're dealing with a lot of factors and keep pushing up the cost of care. Parents can't afford to pay. So when we put things into regulations that are going to increase costs, we need to look for efficiencies. And back in 2016, the childcare providers came together. We developed a whole list of changes that we wanted to make to the regulations that would create some efficiencies, make things better for us. Nothing had to do with removing regulations or making regulations. It was all about either accountability on the side of OCC or it was about doing things that made our businesses run more smoothly. So that we could take in kids or have them in different rooms or, or um, make our schedules work and be in compliance with good quality and safe procedures. So the mood was not, we need to get rid of regulation. The mood was, let's just make it make sense. Okay. So hopefully we can be on a process and then looking in the future, doing things like putting ADA and breastfeeding on a longer track to take those training's would be a great example of how to create those efficiencies for providers and balance out increased costs.</p> <p>The biggest thing that you said that I still am concerned about is for the advertisement. We were hoping that you would put something in the manual, that would give some specifics to the types of advertisements that are and aren't going to be included. When you leave it the way it's currently defined in the statute for advertisement, it's very broad and it'll be open to a lot of different interpretations by licensing specialists. And my concern is when we're looking for, it doesn't need to be a hundred percent consistent between licensing specialists, but it needs to be clear. It needs to be something that we know what it is that you're trying to prohibit so that we can be in compliance.</p> <p>The thing that really makes us frustrated is when we're trying to be in compliance and we can't because we're not sure what we're going to get dinged on. and then also for the, um, the last thing. I think the biggest thing is the lead testing. Right now the way you have it is that we have to kick a child out of child care if their parents don't get the lead testing when they're supposed to. That is not the intent of the lead testing requirement for the state. No other States do it that way. The other States, uh, it's basically a notice requirement. So we need to when we take a kids in, they need to fill out the health form. There's a spot on the health form for the lead testing, the doctors fill it out if they'd haven't gotten their lead testing for one reason or another. Like they're three and they weren't here where they were when they were one and two or there's some medical reason we don't get involved in that. And then forcing us to kick kids out of care just doesn't seem to be consistent with what we're trying to achieve.</p>
Rebecca Hancock MSFCCA	<p>I'm Rebecca Hancock. Like I said earlier, I'm the vice president public policy MSFCCA, we're here today to voice a concern about the all on one level regulation. COMAR 13A.15.08.01. Getting ready for this meeting. I put out emails to many family providers and parents showing what the regulation and how they felt like this would impact them. I've gotten many, many responses from providers and parents they believe this would promote or further extenuate the family childcare decline in Maryland. Family childcare is unique and we do it in our homes and many homes are not one level, uh, many homes have different levels of different rooms that we use and we have to be very creative about how we do our child care program</p> <p>First and foremost, let it be understood that the safety of the children we care for is always our first priority. Like I said, logistics also matter. We were talking about change that can lead many providers unable to comply with this proposal to the layout of their homes. Family childcare providers work long days in a profession that they love and we all know that the money is not the attraction, but they do it for the children and the families who need them. Family childcare is unique in the providers use</p>



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	<p>many approved rooms in their homes. And as you all know, all homes vary by size and layout. I'm going to provide lives in a town home as split-level duplex or the types of home.</p> <p>Each level has a minimum number of available rooms on each level when you care for multiple age children, who are different ages and at different stages of development, sometimes a child under two, we refer to the infant by MSDE, cannot get the rest. They need a room of active and engaged preschoolers and school agers. So what we would like to see is that the legislation language stay the same as this where we can use a sight and sound monitor and do the check every 15 minutes. One of the parents who, um, from John Hopkins referenced in his letter that where his child is right now it's a three level home and the provider's able to keep his infant on the second level while maintaining his other two children with the activities and the learning activities and the things that they're doing on the first level while not interrupting the sleep of the other child's, um, the, the infant. We also know that sleep is very important for emotional, physical and um, social development and we feel like mixing these children sometimes will not let each group of child get the sleep that they need. We just would like it to be sending, there was that option</p>
Debbie Moore	<p>I didn't come planning to speak but there is one issue in the current regulations that I'm pretty passionate about. I was a consultant about this Center Association and the Family Child Care Association. The last time the regulations were introduced and it was my understanding that changes were being made in order to comply with federal regulation.</p> <p>The issue is whether volunteers need a criminal background check. So under 45 CFR section 98.43 background checks. The Feds require criminal background checks for child care staff members, including perspective staff, members of all licensed regulated or registered child care providers and all child care providers eligible to deliver services for which assistance is provided. Then they go on in this regulation to define who these people are and they say child care provider means: a center based childcare provider, a family child care provider or another provider of child care for services, for compensation and on a regular basis that:</p> <ul style="list-style-type: none"> • A is not an individual who's related to all the children for whom child care services are provided • B is licensed, regulated or registered under state law or eligible to receive assistance provided under this sub chapter <p>Childcare staff member means an individual other than an individual who's related to all children from child care services are provided.</p> <ul style="list-style-type: none"> • A who is employed by the childcare provider for compensation, including contract employees or self employed individuals. • B whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider or see any individual residing and family child care home age 18 or older. <p>So if we're talking volunteer, a volunteer is not given the duty of supervising children and is not given unsupervised access to children, which would exempt them from the federal rule requiring criminal background checks.</p> <p>I think that the problem could be solved by defining volunteer in each chapter to say a volunteer is not employed for compensation, is not given duties of supervision of children and does not have unsupervised access to children. And then volunteers don't have to go through criminal background</p>

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	<p>checks. And I know especially in family child care, you need all the volunteer help you can get. But in a center, in a, when it's a holiday party time or a field trip or something, if you had to get CBCs on all those volunteers who help out in the program but are not assigned supervision of kids and don't have unsupervised access to kids who in their right mind would volunteer to pay all that money for a CBC in order to go with a group of kids that are going to be yelling and screaming.</p> <p>It's beyond what you should require a volunteers</p>
Stephane Schaefer MAEYC	<p>We certainly support the broad intent and goals of the proposed regulations in terms of setting higher standards for health and safety in all child care settings. We certainly understand that that's an important goal and we support those goals.</p> <p>I'm glad to hear that you're going to look into an additional regulations seeing about the ADA training and the breastfeeding training. If there can be, if that can not be a pre-service, but allow the 90 day period or some short time-frame to allow folks to get their staff to have that. Because we know that is really challenging to find folks that already have those training's completed when you're looking to make new hires. So it would be really helpful to have that window of time to get folks up to speed at that level.</p> <p>The other thing, we echo the concern, regarding in family childcare settings about children, the need for providers to remain on the same level for infants under age two. We think that it seems there's the research evidence about safer sleep is really about, you know, all our standards, safer sleep practices about back to sleep and nothing in the crib and all those, those important elements of safety. But we think that the audio and video monitoring seems sufficient for safe sleep practices. And just the challenge of with mixed age care groupings and some children awake and some children asleep, how, how they would be able to have infants get the sleep they need and the children who are still awake at that time to get the care they need.</p> <p>So it seems given that challenge, we support making a change to that. Similarly what Debbie was talking about with the volunteers issue, we also would like to see there be an exemption for volunteers because they have like, if we could state that volunteers have no supervisory responsibility, have no independent time with children, and therefore to preserve the ability to bring in volunteers without that background check. We're thinking about that. The great family engagement potential of having volunteers come in. If a parent, if a grandparent can come in and read a story at story time or cook, cook a family recipe or different, you know, there can be culturally diverse experiences brought in as well as just wonderful family experiences, a group of volunteers. And so we'd like to preserve the opportunity to do that without, we're concerned that the extra having the criminal background checks will lead to folks not being able to volunteer.</p>
Aleatheia McKaskill SEIU	<p>I just to reiterate the concern of volunteers. Um, we had a group of volunteers that wants to come this summer to get their community service hours from the local high school and that was a big issue. So we want to just reiterate the fact for the exemption for volunteers.</p> <p>I'm not sure if it has been said already about the concern about the medical evaluations. We may can have a sidebar about that, but I think I was reading about the five year or now, I don't know if that's just for centers.</p> <p>Jennifer Nizer interjected that that it was just for centers</p>



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	<p>The health and safety training, I believe I was reading in the language that it still has to be done every 12 months.</p> <p>Jennifer Nizer interjected : The health and safety training has to be completed. The original health and safety training, which we have online and we are getting ready to have launch a brand new one on it as much more interactive and on a much better platform than what we have right now So that will be coming.</p> <p>What will need to be done on an annual basis is an update. And what we have decided for that update will be is a memo from new office of childcare that states whether there are any updates on any of the 11 topics that need to be discussed in that training. Once that will be sent out in October/November and it will be expected to be the files and signed off by everyone in a program by January one of the following year.</p> <p>And then that regardless of if they've taken the health and safety training are not, we won't, don't want to make it a, a nightmare for everyone to track and we don't want to make it a nightmare for licensing to have to track. So everyone will just sign off on the update on an annual basis at that time and have it in the files by January 1st. You need the health and safety three service. It is 30 days within 90 days of employment.</p>
	Additional Discussion Regarding COMAR Regulations
<p>COMAR Regulation: 13A.16.03.02 E 13A.16.03.04 E</p> <p>Lead Test Screening</p>	<p>Lead Testing Form – The Office of Child Care and the Department of Health agreed that the Department of Health regulations are reflected in MSDE COMAR. If the Department of Health changes their definition, our regulations will still refer to the Department of Health definition.</p> <p>Shaun Rose Brought up a concern with COMAR 10.11.04 in that it isn't as specific as current language. He said especially with excluding a child from care. The way it is written is currently geared toward pre-k and k-12.</p> <p>There is a definition for pre-kindergarten man that there's two points here. One point is that there he doesn't see the definition for pre-K and then a section on excluding children from care. The other part is how much time parents have to come into compliance. Are we giving them the 20 days?</p> <p>Jennifer Nizer Yes. Right, and that's the 20 days that we're talking about.</p> <p>Shaun Rose Yeah, that part I like because you're adding some specificity so it's not on the day that they turn two. There is a little bit of a grace period there and that. I did see that in the health department regulation, but as far as excluding kids from care, that's, that would be something new and that would definitely be something we'd go to bat on.</p>

Commented [TB1]: Didn't hear correct citation on recording. Was inaudible. You have any clue????



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	<p>That wouldn't be something we could agree with on these regulations. I think we're pretty close to being, you know, in agreement. So, this would be for the center side of things. I think this is the remaining sticking point.</p> <p>Chris Peusch Asked the Department of Health to be available to discuss some of these changes but unfortunately, they had no one available.</p> <p>Christle Southall The change Shaun is requesting would be a substantive change and would require pulling the regulations back again. She added that they, where possible, address the concern with guidance in the licensing manual and then try to get these regulations passed so that we won't have the issue with federal requirements and being in compliance and then correcting them.</p> <p>Shaun Rose respectfully disagrees and added that if we were putting in place holders at this point, maybe we need to pull that section back until it's ready.</p> <p>Let's look into it a little bit more and then focus on those things that you really need for CCDBG or what you need to absolutely get past. Because, um, I'm not going to kick a child out of care when their parents doesn't get their lead testing. And it's happened to us multiple times and the doctors still aren't doing it on the right schedule all the time. And it's still something that parents are becoming aware of and it's something that we're telling parents about. But if I have a, uh, like the example that I had when I got cited, I have a parent with three kids in our center and one of them turned two. I told the parent he needed to get the testing done and he said okay. When he didn't do it, I reminded him again. It is not right for the families, or from a fiscal standpoint of the center to drop that child from care. Nor should it be on the center to enforce that requirement. Are we going to have to start checking parents for paying their taxes? What else will we be required to do?</p> <p>Jennifer Nizer This is health department requirement and that we cannot do anything about it at this time. As a business owner, you know going in there are certain requirements you're going to have to meet. She doesn't agree with the exclusion part either, but it is what is the Department of Health regulations, so we must follow them until there is further discussion. Does not agree with the requirement. She believes there needs to be a meeting with the Department of Health to go over this topic. It really should not be a requirement on MSDE.</p> <p>Manjula Paul Explained it from the health care community standpoint. We want the children to be healthy, and safe. That is why there are so many regulations surrounding health and safety. We need to schedule a meeting with them to discuss this further.</p> <p>Jennifer Nizer and Steven Hicks both reminded the group that today's meeting is for discussion purposes only. We will not be making changes to regulations without consulting our attorneys and others. We are going to implement this process moving forward on all our regulations.</p>



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	<p>Lacey Tsonis Shared that her pediatrician told her 'not to worry about' the lead testing form and would just sign off on it.</p>
<p>COMAR Regulation 13A.16.06.05B 3(c)(5) 13A.16.06.09 A(5), 13A.16.06.10 A(4), 13A.16.06.11 A(4), 13A.16.06.12 A(3)</p> <p>Pre-Service Requirements</p>	<p>Have there been any updates on the ADA and breastfeeding training requirements?</p> <p>I guess from the basic health and safety training side of it, I knew it was mentioned that yearly we will need that update. Is that update going to be the online training as well as signing?</p> <p>Just sign the form. Unless there are major issues that we have to change the training because there are, they come down and make sure you have a new regulations or they come down from the feds and say that we need to change X, Y and Z and all of these areas. Now it will be the same. They will have to take the initial health and safety training and then it will be an update, a memo update on an annual basis.</p> <p>Is it possible to offer more training of trainers so that we can increase the number of trainers because it is really tough getting trainers to come to our location. We haven't really seen any trainings of trainers for that offered in over a year, year and a half.</p> <p>Jennifer Nizer We would look into the train-the-trainer. Lacey said from the MFN standpoint that they haven't heard of much need for a train-the-trainer in this topic. The basic online course is free, and a lot of people are using that version.</p>
<p>COMAR Regulation 13A.15.08.01. E (1)(a)</p> <p>General Supervision</p>	<p>There was a general discussion about the new sleep requirements.</p> <p>Several people (Rebecca Hancock, Shaun Rose, Debbie Moore, Jennifer Nizer) Rebecca explained how people do not understand the logistics of the family child care home. Maintaining sight and sound every 15 minutes without the benefit of a monitor just will not work in all family child care homes. Please give us the opportunity to use the monitors.</p> <p>Shaun Rose Added that we need to be reasonable. How often does this occur in child care? Are we talking about something that happens frequently, or once in a while? It would be nice to have those types of statistics for the full Council to review.</p>
<p>COMAR Regulation 13A.16.03.09 A</p> <p>Advertisement</p>	<p>Shaun Rose If you would just put in the manual the limitation language that you said elsewhere, I think that would be helpful. Just so that it's clear for a specialist as to what counts and what doesn't, and for us too, because there's a lot of preplanning and stuff that goes into, um, the things that we buy, they have our names on it, whether it's advertising or whether it needs the number or whether it needs also a statement, um, or just the number suffices. If that can be in the manual that just the number of devices, um, on an advertisement. I think that's hugely helpful.</p> <p>Jennifer paraphrased the definition of 'advertisement' as defined in statute.</p>



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	<p>Any advertisement is something that encourages someone to come in and sign a contract with you, which means your name, your phone number, your address that gives everyone what they need to be able to come in and get you and sign up with you. If it's just your childcare center name on a piece of t-shirt tee shirt, that is not an advertisement. If you have tee shirts preyed on the back that have your name, your address, and your phone number, that is encouraging people to come and sign a contract with you to contact you to sign that contract. So that is what, that's what we're looking at.</p> <p>Someone asked "If you would write that, put that in writing, I think that's helpful because I wouldn't have interpreted, I read that language and about how advertisement is defined. I wouldn't have interpreted it that way. And I think, you know, with specialists, they're going to interpret it differently if that's all that's in writing."</p>
Volunteers	<p>Debbie Moore</p> <p>Raised her concern with the new background check requirements for volunteers during the verbal testimony part of the hearing and Jennifer brought it back around by asking if anyone saw a problem with the way things are worded in this area. Or, some reason people believe it cannot be done?</p> <p>One concern came up that she could not comment on an [inaudible] question and that we were still waiting for guidance. Someone else suggested putting the regulation on hold.</p> <p>The overall result of the conversation was that defining language needs to go into the manual.</p> <p>Someone else also requested definitions for volunteers of certain levels of supervisory roles on field trips, etc. They think defining the different roles, such as parent volunteer, could be exempt from the requirement for a background check</p>
Next Meeting	<p>November 21, 2019 10:00 am – 12:00 Noon MSDE 8th Floor Conference Room 6</p>
Future 2020 Meetings	<p>February 20, 2020 May 20, 2020 August 20, 2020 November 20, 2020</p> <p>10:00 am – 12:00 Noon MSDE 8th Floor Conference Room 6</p>