



# Issuing Letters of Compliance

(December 2016)

for use with

## COMAR 13A.17 Letters of Compliance

(as amended effective 7/20/15)

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**.01 Exclusion for Acute Illness.**

**A. Child care staff shall:**

- (1) **Monitor a child for signs and symptoms of acute illness;**
- (2) **Notify a child's parent or other designated person upon observing a sign or symptom of acute illness; and**
- (3) **Provide temporary isolation for the affected child in a suitably equipped separate area within sight and hearing of an adult.**

*INTENT: To prevent the spread of illness and to protect all the children in care, facility staff must observe children for any signs of acute illness and promptly notify a child's parent if the child appears to be ill. A child in attendance who becomes acutely ill must be kept away from the other children and constantly monitored by facility staff until the child's parent can take the child home.*

**INSPECTION REPORT ITEMS:** "Exclusion for Acute Illness"

**COMPLIANCE CRITERIA:**

- *Parental notification:*
  - *Each child is monitored throughout the day for signs of illness.*
  - *If a child shows any signs of acute illness, the child's parent or other authorized adult is promptly notified and requested to take the child home.*
- *Isolation area:*
  - *An acutely ill child is isolated in a suitable area away from the other children and kept under sight-and-sound staff monitoring.*

**ASSESSMENT METHOD:** *If the facility has a procedure regarding acutely ill children, review it to determine whether it reflects the requirements of this regulation. As needed, interview facility staff to determine how acute illness situations are handled and where the isolation area is located. If acute illness episodes have occurred, review applicable child records for evidence of parent notification.*

**B. An operator may not admit a child to care or allow a child to remain in care when the child is exhibiting symptoms of acute illness.**

*INTENT: An acutely ill child requires closer observation and care and may be a source of contagion for other children in care; therefore, the operator may not allow a sick child to attend care unless OCC has approved the facility to provide care for acutely ill children. (See Chapter .13 in this Manual for requirements regarding approval of facilities for children with acute illness).*

**INSPECTION REPORT ITEM:** "Exclusion for Acute Illness"

**COMPLIANCE CRITERIA:**

- *There are no acutely ill children in attendance, or*
- *If in attendance, an acutely ill child is separated from the other children, closely monitored by a responsible adult, and is waiting to be picked by the child's parent or other authorized adult.*

**ASSESSMENT METHOD:**

- *Observe to determine if any acutely ill child is present.*
- *If an acutely ill child is present, observe to determine if the child is maintained separate from the other children.*

**Notes:**

- *For help in identifying signs of acute illness, see “**Signs of Illness in Children**”.*
- *A history of seizures that are not related to acute illness is not grounds for exclusion from care.*
- *It is recommended that the operator inform parents at the time children are enrolled and again at the time they are first admitted of the requirement to exclude children for acute illness. The operator is encouraged to include a statement to that effect in whatever written agreement or service contract is used for child enrollment purposes.*

**C. A child may not be readmitted to care after an absence of 3 days or more due to illness without a written statement from the parent or physician that the child may return to a regular schedule.**

**INTENT:** *An illness requiring a child to be kept out of care for 3 or more days is serious enough to require a written statement that the child is well enough to return to care. This requirement helps protect the facility operator and staff as well as the other children in care.*

**INSPECTION REPORT ITEM:** *“Exclusion for Acute Illness”*

**COMPLIANCE CRITERIA:** *For each occurrence of a child's absence for at least 3 days due to illness, there is a written statement from the child's parent or physician that the child is well enough to return to regular care.*

**ASSESSMENT METHOD:** Interview facility staff to determine if any children have been re-admitted after illness absences of 3 or more days, then review applicable child records to determine if the required statements have been submitted.

**.02 Infectious and Communicable Diseases.**

- A. An operator shall immediately transmit to the health officer a report of the name and address of a child or a staff member who appears to be infected with a reportable communicable disease or who has been exposed to a reportable communicable disease as indicated in COMAR 10.06.01.03.**

**INTENT:** A “reportable communicable disease” is any one of a group of highly infectious or contagious illnesses classified by the Maryland Department of Health and Mental Hygiene (DHMH) as serious threats to public health that must be identified, isolated, and treated immediately. For this reason, any incidence of these diseases must be reported to the local health department immediately.

**INSPECTION REPORT ITEM:** “Infectious and Communicable Diseases”

**COMPLIANCE CRITERIA:** Immediately upon learning that a child enrolled in care or a facility employee has or may have a reportable disease, the operator contacts the local health department.

**ASSESSMENT METHOD:** Interview facility staff as necessary to determine if there has been an incidence of a reportable disease, then review facility records for evidence that the required report was made.

**Notes:**

- There are currently almost seventy diseases classified by DHMH as “reportable.” The occurrence of any of these diseases must be reported immediately to the local health department, and some of them must be reported telephonically. A complete list of reportable diseases and the reporting requirements pertinent to facility operators are set forth in **“COMAR 10.06.01 – Communicable Diseases and Related Conditions of Public Health Importance”**.
- Operators may obtain additional information about reportable diseases and reporting requirements from the DHMH Epidemiology and Disease Control Program website, [www.edcp.org](http://www.edcp.org) – click on the “Reportable Diseases” tab, or by calling the local health department.

- B. Except in facilities for children with acute illness, an operator may not knowingly admit to care or retain in care a child with a transmissible infection or a communicable disease during the period of exclusion recommended for that**

**infection or disease as shown on a chart provided by the office, unless the health officer grants approval for the child to attend child care during that period.**

*INTENT: Exclusion from care for a specified period due to having a specified communicable disease is necessary to protect the health of other children in care.*

*INSPECTION REPORT ITEM: “Infectious and Communicable Diseases”*

*COMPLIANCE CRITERIA: Unless approved in writing by a physician to return to care sooner, no child with one of a specified group of communicable diseases is returned to care until the recommended period of exclusion from care has been completed.*

**ASSESSMENT METHOD:**

- *Observe to determine if any child with signs of a transmissible infection or communicable disease is in attendance.*
- *Interview facility staff to determine if and how a child known or believed to be in the communicable stage of an infection or disease is kept out of care.*
- *Review facility records to determine if a copy of the **DHMH “Communicable Disease Summary”** is present for facility staff reference.*

**Notes:**

- *Under the Americans with Disabilities Act (ADA) of 1990, persons with certain health/medical conditions (e.g., HIV/AIDS) are considered to have a disability and may not be denied admission to care, or continuation in care solely on the basis of that disability. For more information about ADA requirements as they may apply to the facility, refer to **“ADA-Americans with Disabilities Act – How it Relates to Child Care”**.*
- *Confidentiality should be maintained at all times. The child’s physician is not required to disclose information to any caregiver without written release of information from a parent or guardian.*
- *Facility staff should always take appropriate precautions whenever coming into contact with blood or other bodily fluids or excretions, or with items that have been contaminated with such substances.*
- *For infection control precautions and measures that OCC expects all child care programs to use, see **“General Sanitation Guidelines”**.*

**.03 Preventing Spread of Disease.**

- A. A written hand washing procedure approved by the office shall be posted at each sink used for washing hands.**
- B. Hands shall be washed according to the posted approved procedure by a facility employee, volunteer, or child in care at least:**
- (1) After toileting or diapering;**
  - (2) Before food preparation or eating; and**
  - (3) After an outdoor activity or handling an animal.**

*INTENT: To prevent the spread of infection and illness, adults and children must wash their hands properly after touching potentially contaminated items or substances.*

**INSPECTION REPORT ITEM:** *“Preventing Spread of Disease”*

**COMPLIANCE CRITERIA:**

- *Each employee and each child practices frequent handwashing.*
- *Soap and warm running water are used to wash hands, when available; or, a hand sanitizer is used for children who are 2-years-old or older.*
- *Staff members wash the hands of children who are not capable of washing their own hands, as required, using soap and warm running water.*
- *No one washes hands in a food service/preparation sink to keep germs away from food.*
- *Facility personnel always follow OCC’s approved handwashing procedure (see **“Handwashing Procedure”**).*

**ASSESSMENT METHOD:** *Observe how and when hands are washed. If observation is not possible, interview facility personnel to determine how, when, and where handwashing is done.*

**Notes:**

- *Animals, including pets, are a potential source of disease. Not only must hands be washed after handling animals, the facility must take precautions to prevent the occurrence of disease through animal-related contamination of food areas and the lack of proper pet sanitation. See **“Animals in Child Care Facilities”** for guidance on maintaining pets and other animals in a child care facility.*
- *Hand sanitizing gels may be used only during off-site activities and similar situations when soap and water are not available. Ethyl alcohol is the active*

*ingredient in most sanitizing gels. The gels often have more than 80% alcohol content, which is higher than normally found in hard liquors. Hand sanitizing gels, therefore, have the potential for toxicity in very young children and infants who explore their world through hand-mouth activities. Because children frequently place their hands in their mouths, they could be poisoned through the ingestion of even small amounts of hand sanitizers. Ingestion of as little as an ounce or two by a small child could be fatal, so hand sanitizers must be kept out of the reach of children and used with great caution.*

**C. Diapering shall be performed in accordance with a written diapering procedure approved by the office.**

**.04 Medication Administration and Storage.**

**A. Medication Administration.**

- (1) **Medication, whether prescription or non-prescription, may not be administered to a child in care unless:**
  - (a) **Parental permission to administer the medication is documented on a completed, signed, and dated medication authorization form, provided by the office, that is received at the facility before the medication is administered; and**
  - (b) **A licensed health practitioner has approved the administration of the medication and the medication dosage.**

*INTENT: To prevent the unnecessary and inappropriate administration of prescription and nonprescription medication.*

*INSPECTION REPORT ITEM: "Medication Administration and Storage"*

*COMPLIANCE CRITERIA: Unless exempted or approved, a nonprescription medication is given only once per illness.*

*ASSESSMENT METHOD: Observe how nonprescription medication is administered. Review medication administration records to determine if the nonprescription medication is administered according instructions.*

**Note:**

*Nonprescription medication is over-the-counter medication that is prescribed by a physician to be administered to a child. "Over-the-counter Medication" are products found on store shelves which may be purchased by the general public without a prescription from a physician. For example, a physician may prescribe "Tylenol" for a child which is over-the-counter medication purchased by the general public.*

- (2) **A prescription medication may not be administered to a child unless at least one dose of the medication has been given to the child at home.**
- (3) **If the medication is by prescription, it is labeled by the pharmacy or physician with:**
  - (a) **The child's name;**
  - (b) **The date of the prescription;**
  - (c) **The name of the medication;**
  - (d) **The medication dosage;**
  - (e) **The administration schedule;**
  - (f) **The administration route;**
  - (g) **If applicable, special instructions, such as “take with food”;**
  - (h) **The duration of the prescription; and**
  - (i) **An expiration date that states when the medication is no longer useable.**

***INTENT for (2) and (3) above:***

- *Medication may be administered to a child only if there is prior written, signed permission from the child’s parent.*
- *Prescription medication may be administered only if the medication is properly labeled and has not expired, and the parent has already given the medication to the child to be sure that the child will not have an adverse reaction.*

***INSPECTION REPORT ITEM: “Medication Administration and Storage”***

***COMPLIANCE CRITERIA:***

- *Before giving medication to a child, the facility has on file for that child a completed, signed “**Medication Authorization Form**”, **OCC form 1216**, or an equivalent document which contains all information as required on the OCC form 1216.*
- *Each prescription medication:*
  - *Is properly labeled by a physician or pharmacy and is current, and*
  - *Has already been given to the child by the parent.*

***ASSESSMENT METHOD:***

- *For each child receiving medication, review the child’s file to determine if a “Medication Authorization Form” (or an equivalent document) is present and when it was received.*



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- *For each child receiving prescription medication:*
  - *Examine the medication to determine if the medication is properly labeled and not expired.*
  - *Review the child's file for evidence of initial administration by the parent.*

Notes:

- *If the prescription medication is properly labeled, the Medication Administration form does not have to be completed or signed by the physician. The information from the medication label could be noted on the medication administration form in the "Prescribers" section, with the parent/guardian completing the "Parent/Guardian Authorization" portion of the form. Or, the provider could create a form to note the prescription information and parental authorization.*
- *While there is a place for a child's picture on the Medication Administration form, the child's picture is not required.*

**B. Topical Applications. A diaper rash product, sunscreen, or insect repellent supplied by a child's parent may be applied without prior approval of a licensed health practitioner.**

Notes:

- *Diaper rash products, sunscreen, and insect repellent are considered "Basic Care Products" not nonprescription medications. They are referred to as "Topical Applications" because they are applied on the child's skin and not taken internally. An individual does not need to have taken "Medication Administration" training to apply basic care/topical products on a child.*
- *A parent may not give a provider a "home-made" product to use on the child. The product must be clearly labeled with a product name and instruction for use.*

**C. Medication shall be administered according to the instructions on the label of the medication container or a licensed health practitioner's written instructions, whichever are more recently dated.**

*INTENT: Because a child's medication dosage or schedule may change, the medication must be given according to the most recent written instructions.*

*INSPECTION REPORT ITEM: "Medication Administration and Storage"*

*COMPLIANCE CRITERIA: Each medication is given according to current instructions.*

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**ASSESSMENT METHOD:** *Observe to determine if medication is given as instructed. If observation is not possible, review the child's file and medication to determine if the medication is being given according to the written instructions.*

**D. Recording Requirements.**

- (1) **Each administration of a prescription or non-prescription medication to a child, including self-administration of a medication by the child, shall be noted in the child's record.**

**INTENT:** *Each time medication is given, a record must be made of what was given, who gave it, and when. The staff member trained in medication administration who administered the medication, must complete the log attached to the "**Medication Authorization Form**", OCC form 1216.*

**INSPECTION REPORT ITEM:** "Medication Administration and Storage"

**COMPLIANCE CRITERIA:** *For each child receiving medication, a complete entry is made in the child's file each time medication is given.*

**ASSESSMENT METHOD:** *Review of the child's file to determine if complete entries have been made.*

**Note:** *Child care staff must document each instance of a child self-administering medication. Using the Medication Administration Log, document the date, time and reason the medication was administered.*

- (2) **Application of a diaper rash product, sunscreen, or insect repellent supplied by a child's parent shall be recorded in the child's record.**

**Notes:**

- A topical basic care product brought in by the parent **does not have to be recorded each time it is applied on the child's body.** *For example, the product could be recorded in the child's record upon receipt from the parent/guardian, noting the date and the name of the product, and stating how the product is used, i.e., "The product is applied daily on the child". If the parent/guardian changes the product, note in the child's record, the name of the new product, the date received and how it is used.*
- The "Medication Administration Log" should not be used for this purpose.

- *Any method most convenient for the child care provider to record the application of topical products in the child's record is acceptable.*

**E. Medication Storage.**

- (1) **Each medication shall be:**
  - (a) **Labeled with the child's name, the dosage, and the expiration date;**
  - (b) **Stored as directed by the manufacturer, the dispensing pharmacy, or the prescribing physician; and**
  - (c) **Discarded according to guidelines of the Office of National Drug Control Policy or the U.S. Environmental Protection Agency, or returned to the child's parent upon expiration or discontinuation.**
- (2) **All medications shall be stored to make them inaccessible to children in care but readily accessible to each employee designated by the operator to administer medication.**

*INTENT: In addition to keeping medications inaccessible to children, the operator must ensure that all child medications are stored properly.*

*INSPECTION REPORT ITEM: "Medication Administration and Storage"*

*COMPLIANCE CRITERIA: Child medications are stored to maintain their potency.*

*ASSESSMENT METHOD: Observe to determine if medications are stored according to the medication's label instructions.*

*Note: Medications requiring refrigeration must be stored in the facility's refrigerator.*

**F. Effective July 1, 2011:**

- (1) **Whenever children in care are present, there shall be at least one facility employee present who has completed medication administration training approved by the office.**
- (2) **Medication may be administered to a child in care only by an employee who has completed approved medication training.**

*INTENT: Only individuals who have received approved medication administration training may administer medication to a child in care and there must be at least one such individual present at the facility when enrolled children are present.*

*INSPECTION REPORT ITEM: "Medication Administration and Storage"*

*COMPLIANCE CRITERIA: The only staff members who administer medication to children in care are those individuals who have completed medication administration*

training that has been approved by the office and at least one such trained staff member is present at the facility when children in care are present.

**ASSESSMENT METHOD:**

- Review staff training documentation to determine which staff members have completed an approved medication administration training.
- Review the facility's Staffing Pattern to determine if at least one such trained staff member is scheduled to be present during the operational hours of the facility.
- Whenever possible, observe the administration of medicine to a child and verify if the individual administering the medication has had the approved medication administration training.

**Note:** If at any time, a life threatening medical crisis occurs, such as a child having an asthma or allergy attack, and a staff person who has taken medication administration is not available, the appropriate medication may be administered by a staff person to save the child's life.

**G. Section F of this regulation shall not apply if:**

- (1) **The facility employs a registered nurse, licensed practical nurse, or medication technician certified by the Maryland Board of Nursing to administer medication to children in care; or**
- (2) **Responsibility for administering medication to children in care is delegated to a facility employee by a delegating nurse in accordance with COMAR 10.27.11.**

**H. Self-Administration of Medication.**

- (1) **Before a child may self-administer medication while in care, the operator shall:**
  - (a) **Have a written order from the child's physician and the written request of the child's parent for the child's self-administration of medication;**

**INTENT:** To allow school-age children only who use inhalers and epi-pens to self-carry and self-administer these medications. No other medications may be self-administered.

**Note:** The "**Asthma Action Plan**" and/or the "**Allergy Action Plan**" may be used in lieu of the OCC 1216 Medication Administration Authorization Form for children who will self-carry/self-administer medication for asthma and/or allergies.

- (b) **In consultation with the child's parent, establish a written procedure for self-administration of medication by the child based on the physician's written order; and**
- (c) **Authorize the child to self-administer medication.**

*INTENT: Once the parent and provider develop the procedures, the provider must authorize the child to self-administer the medication.*

**(2) Revocation of Authorization to Self-Administer.**

- (a) An operator may revoke a child's authorization to self-administer medication if the child fails to follow the written procedure required by §H (1) (b) of this regulation.**
- (b) Immediately upon revoking the child's authorization to self-administer medication, the operator shall notify the child's parent of that revocation.**
- (c) The operator shall document the revocation of authorization to self-administer and the notification to the child's parent in the child's record.**

*INTENT: If a child does not follow the procedures appropriately, a provider may revoke the authorization and must note the reasons for the revocation in the child's record. If authorization is revoked, the provider must take responsibility for having the medication administered to the child.*

**.05 Smoking.**

**Smoking is prohibited:**

- A. At all times in any indoor area of a child care facility; and**
- B. During the facility's hours of operation, in any outdoor area of the facility which is approved for child care use.**

*INTENT for (A) and (B) above: Inhalation of second-hand smoke is a health hazard for children.*

**INSPECTION REPORT ITEM: "Smoking"**

**COMPLIANCE CRITERIA:**

- *There is no smoking inside the facility at any time by any person.*
- *During the hours of operation, there is no smoking by any person in any outdoor area approved for child care or any off-site area where a program activity is occurring.*

**ASSESSMENT METHOD:** *Observe for any sign that smoking inside the facility or outside in any approved area may be occurring or has occurred. Interview facility staff to obtain information about smoking at off-site areas.*

**.06 Alcohol and Drugs.**

**An operator may not allow the consumption of alcoholic beverages or use of illegal or non-prescribed controlled dangerous substances:**

- A. On the facility premises during the facility's hours of operation; or**
- B. By an employee or a volunteer during an off-site program activity.**

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**INTENT:** *The operator is responsible for ensuring the health, safety, and welfare of each child in attendance. Consumption of alcohol or drugs is likely to impair a person's ability to provide safe and appropriate child care. Consumption of any such substance by any person on the facility premises during the facility's operating hours, or during any off-site program activity, is strictly prohibited.*

**INSPECTION REPORT ITEM:** *“Alcohol and Drugs”*

**COMPLIANCE CRITERIA:** *There is no consumption of alcohol or drugs by any person during the hours of operation, whether on facility premises or off-site during a program activity.*

**ASSESSMENT METHOD:** *Observe for any sign that may indicate the consumption of alcohol or drugs during operating hours. Interview facility staff to obtain additional information, as needed.*