

## CHAPTER THIRTEEN – FAMILY CHILD CARE HOMES

### SC Statute 63-13-810

#### Registration required for family child care homes.

- (A) As used in this subarticle, "family childcare home" means a facility within a residence occupied by the operator in which childcare regularly is provided for no more than six children, unattended by a parent or legal guardian, including those children living in the home and the children received for childcare who are related to the resident caregiver. However, an occupied residence in which childcare is provided only for a child or children related to the resident caregiver or only for the child or children of one unrelated family, or only for a combination of these children, is not a family childcare home.
- (B) An operator of a family childcare home shall register with the department within six months of June 13, 1977.
- (C) A family childcare home which elects to participate in a federal program which requires licensing as a prerequisite to participation may elect to be licensed under the procedures in Section 63-13-820. A family childcare home electing licensing shall demonstrate compliance with the suggested standards developed by the department under Section 63-13-180 and shall comply with provisions of Sections 63-13-420 and 63-13-430 relating to criminal history conviction records checks upon original licensing and upon renewal. Operators and caregivers of licensed family childcare homes are held to the standards in Sections 63-13-420 and 63-13-430 regarding criminal convictions.

***POLICY: Per the Suggested Standards for Operation of a Family Child Care Home, the minimum age of an operator of a Family Child Care Home is 18 years of age. (5/1/06)***

***POLICY: If the household member of a Family Child Care Home has a conviction which would prohibit him/her from working in child care, the Family Child Care Home must close and forfeit its registration or license. (8/1/06)***

***POLICY: When the Office of Child Care Licensing gains information that a child care employee has been charged or convicted of a crime but failed to report the incident to Child Care Licensing, a staffing must be held to determine whether or not the incident should be referred to the Division of Investigation for possible notification of the appropriate office of law enforcement. (7/30/09)***

***POLICY: An individual or individuals may possess more than one regulatory permit, provided that they are in compliance with the requirements for each type of permit. For instance, a Family Child Care Home operator may have a license to operate one or more Child Care Centers but may not have a registration for a second Family Child Care Home or a license for a Group Child Care Home. (7/30/09)***

**114-528. A. Definitions. Terms used in South Carolina Regulations, Chapter 114, Article 5, Part A, shall be all definitions cited in Section 63-13-20 et seq., Code of Laws of South Carolina in addition to the definitions which follow:**

- (1) *Emergency Person.* An individual not regularly employed by the facility who is immediately available to serve as staff in the facility during emergency situations.
- (2) *Judicially Determined.* A criminal conviction in a court of law which is either the result of a jury trial, guilty plea, plea of no contest or forfeiture of bond in cases of misdemeanor or a determination of child abuse or neglect in any court of competent jurisdiction.
- (3) *Original and Renewal Application for a License/Approval.* Completed Department of Social Services (DSS) application form, completed DSS inspection study, completed health and fire inspection reports, current criminal history background records checks, written policies, and other related information deemed necessary by the Department to make a determination of issuance or non-issuance of a license/approval.

***POLICY: Family Child Care Homes must have an emergency plan which includes a plan for evacuating children in child care, a plan for reuniting families after a disaster, and a plan for special needs children. The Child Care Licensing Emergency Plan Template includes all of these requirements. Completion and use of the template constitutes meeting these requirements.***

- (4) *Overnight Care.* Care provided to children by the facilities defined in these regulations from 1:00 a.m. to 6:00 a.m.
- (5) *Parent.* Biological or legal guardian of the child or individual or agency with physical or legal custody.
- (6) *Staff.* Full-time and part-time administrative, program, service and volunteer personnel, including emergency persons.

***POLICY: Spouses, household members, and emergency persons are required to receive two hours of annual training if they provide care for children at any time. (11/24/10)***

- (7) *Supervision.* Care provided to an individual child or group of children. Adequate supervision requires awareness of and responsibility for the ongoing activity of each child, knowledge of activity requirements and children's needs and accountability for their care. Adequate supervision also requires the operator and/or staff being near and having ready access to children in order to intervene when needed.
- (8) *Training.* Participation during the calendar year in workshops, conferences, support groups, educational or provider associations, formal schooling, in-service training or planned learning opportunities provided by a child day care operator, director, other staff, or consultants. Training must be in subject areas related to child care, child development, and/or early childhood education and nutrition. Training for operators may also be in areas related to day care program administration and must include alternatives to corporal punishment.

***POLICY: Two hours of training must be obtained annually. Training hours/credit may not be carried over to the following year. (11/24/10)***

***POLICY: Spouses, household members, and emergency persons who care for children at any time may not receive training on the same topics in two consecutive years. (11/24/10)***

**POLICY: Pediatric CPR and First Aid classes meet the training requirements for Kendra's Law. Training must be conducted by a recognized health care organization and must include a hands-on skills component. A copy of the certification card (front and back) must be provided as proof of completion. (11/24/10)**

**POLICY: All trainers and training must be registered or certified through the Center for Child Care Career Development prior to conducting training. Participants must sign the official DSS roster provided by CCCC. A copy of the card (front and back) must be provided as proof of completion. (11/24/10)**

- (9) *Volunteer.* An individual whose services are involved in the operation of the family day care home without compensation on a daily, weekly or monthly basis, including parents, students, student teachers and other persons all of whom are subject to compliance with the same applicable regulations as paid family day care home staff.

## Liability Insurance

### SC Statute 63-13-210.(A)(B)

Notice to parents that childcare business does not carry liability insurance.

**(A) An owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 63-13-20, who does not carry liability insurance for the operation of his childcare business, shall, by no later than January 1, 2009, obtain signed statements from the custodial parent or parents or guardian or guardians of each child currently enrolled in the childcare center, group childcare home, or family childcare home indicating that the parent or parents or guardian or guardians have received notice that the childcare center, group childcare home, or family childcare home does not carry liability insurance for the operation of its childcare business. The owner or operator of a childcare center, group childcare home, or family childcare home must maintain a file of these signed statements at the home during the period of time a child is enrolled. For new enrollees to a childcare center, group childcare home, or family childcare home, the owner or operator must provide the parent or parents or guardian or guardians of a new enrollee with this information at the time of enrollment, obtain a signed statement from each parent or guardian at the time of enrollment, and maintain these signed statements at the home during the period of time a child is enrolled.**

**(B) If an owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 63-13-20, has liability insurance for the operation of his childcare business that lapses or is canceled and not reinstated or replaced, the owner or operator shall obtain and maintain statements in accordance with subsection (A) from the custodial parent or parents or guardian or guardians of each child enrolled in the childcare center, group childcare home, or family childcare home no later than thirty days after the liability insurance lapses or is canceled.**

**POLICY: All child care facilities shall be asked to provide proof of liability insurance. If a facility does not have insurance coverage, they shall be informed of the requirement to give proper notification to parents of enrolled children. (1/29/09 revised 2/27/12)**

**SC Statute 63-13-820  
Registration procedures; family childcare homes.**

- (A) Registration must be completed on forms supplied by the department and in the manner it prescribes.
- (B) Before becoming a registered operator the applicant shall:
- (1) sign a statement that he has read the suggested standards developed by the department under Section 63-13-180;
  - (2) furnish the department with a signed statement by each consumer parent verifying that the operator has provided each consumer parent with a copy of the suggested standards for family childcare homes and the procedures for filing complaints;
  - (3) upon request, provide the department with any facts, conditions, or circumstances relevant to the operation of the family childcare home, including references and other information regarding the character of the family childcare home operator.
- (C) A person applying to become a registered operator of a family childcare home under this section and a person fifteen years of age or older living in the family childcare home shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint reviews required by this subsection are not required upon each renewal.
- (D) No applicant may be registered as an operator if the person, an employee, a caregiver, or a person fifteen years of age or older living in the family childcare home has been convicted of:
- (1) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;
  - (2) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;
  - (3) the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;
  - (4) the felonies classified in Section 16-1-10(A);

- (5) the offenses enumerated in Section 16-1-10(D); or
- (6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.

This section does not operate to prohibit registration or renewal when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to be an operator, caregiver, employee, or to be living in the family daycare home.

- (E) Application forms for registration issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (D) who applies for registration as operator or a person who applies for registration as an operator who has a person fifteen years of age or older living in the family childcare home who has been convicted of a crime enumerated in subsection (D) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.
- (F) Application forms for registration issued under this chapter by the department and application forms for employment at a family childcare home must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of one of the crimes listed in this section who applies for a license as operator, applies for employment with, is employed by, seeks to provide caregiver services with, or is a caregiver at a facility is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

***POLICY: Convicted felons are prohibited from acting in the capacity of a volunteer even if supervised by qualified staff at all times. (1/29/09)***

**SC Statute 63-13-860  
Consultation; family childcare homes.**

The department shall offer consultation through employed staff or other qualified persons to assist a potential applicant, an applicant or registered operator in meeting and maintaining the suggested standards for family childcare homes.

**114-528. B. Procedures for Pre-Application Consultation and Original Registration.**

- (1) A potential operator of a family day care home may secure information about the registration or licensure process by contacting the State or local county Department of Social Services.

**POLICY:** *Two hours of training must be obtained annually. Training hours/credit may not be carried over to the following year. (11/24/10)*

**POLICY:** *Spouses, household members, and emergency persons who care for children at any time may not receive training on the same topics in two consecutive years. (11/24/10)*

**POLICY:** *Any new prospective child care provider will be offered a formal orientation session by Child Care Licensing and Regulatory Services. This session will be consistent throughout the state and shall include instructions on zoning. SEE RESOURCE MANUAL SECTION 3 FOR PROVIDER ORIENTATION INSTRUCTION BOOKLET. (1/31/06)*

**NOTE:** *PROCESSING IS PERFORMED VIA MAIL FOR REGISTERED FAMILY CHILD CARE HOMES. NO VISIT TO A R- FCCH WILL TAKE PLACE UNLESS THERE IS A COMPLAINT.*

**PROCEDURE:** *Applicant receives packet at orientation or by mail.*

- (2) The family day care home applicant shall have a working, listed telephone in the facility and shall make the telephone number available to parent(s)/guardian(s) of children enrolled in the facility and to Department staff.
- (3) The Department representative shall provide the applicant with the required number of forms, a copy of the current Suggested Standards and Regulations for Family Day Care Homes, a copy of Section 63-13-20 et seq., Code of Laws of South Carolina (Child Day Care Statute) and a copy of sections of the Children's Code which are related to child abuse and neglect, with an explanation of procedures and information required by the Department.
- (4) The applicant shall complete the following:
  - (a) Complete and sign the required number of application forms.

**PROCEDURE:** *1. Applicant submits completed application, Original or Renewal Registration of FCCH (DSS Form 2922), 3 reference statements (DSS Form 2908), and original zoning approval letter.*

*2. Application information is entered into system.*

**POLICY:** *Family Child Care Homes must have an emergency plan which includes a plan for evacuating children in child care, a plan for reuniting families after a disaster, and a plan for special needs children. The Child Care Licensing Emergency Plan Template includes all of these requirements. Completion and use of the template constitutes meeting these requirements.*

- (b) Obtain and submit to Department staff current (less than one year old) South Carolina State Law Enforcement Division (SLED) criminal history background records checks for himself/herself, substitute caregiver(s), emergency person(s) and volunteer(s).

**POLICY:** *The Family Child Care Home shall follow current FBI/SLED policies for obtaining state fingerprint reviews. (1/31/06)*

**POLICY:** *If the household member of a Family Child Care Home has a conviction which would prohibit him/her from working in child care, the Family Child Care Home must close and forfeit its registration or license. (8/1/06)*

**PROCEDURE:** *Regulatory Specialist requests that the following be submitted as soon as possible:*

- a. **To DSS Finance Division: Completed fingerprint cards for operator, emergency person, any additional staff and any household members 15 years of age or older along with Transmittal Form. (If no FBI results on operator, emergency person, any additional staff and/or household members 15 years of age or older, a Statement of Compliance (DSS Form 2925) must be submitted prior to issuance of Registration.**
  - b. **To Child Care Licensing & Regulatory Services Regional Office: Consent to Release Information (DSS Form 2924) and \$8.00 payment on operator, emergency person, any additional staff, and any household members 18 years of age or older; 3 Reference Release Statements (DSS Form 2908), and Household List.**
- (c) Provide written references with names, addresses and telephone numbers of at least three persons unrelated to the applicant who shall be contacted by the Department as references;
  - (d) Read the Suggested Standards For Family Day Care Homes;
  - (e) Furnish or review with parent(s)/guardian(s) of each child to be enrolled in the facility, a copy of the Suggested Standards;
  - (f) Secure a signed statement from each parent/guardian verifying that they have reviewed the Suggested Standards;
  - (g) Send required copies of completed and signed applications, required information regarding references and all signed statements from parent(s)/ guardian(s) to Department staff;

**PROCEDURE: Operator must submit DSS Form 2909, consumer parent Statement, prior to child's enrollment.**

- (5) Department staff shall review the registration materials and shall complete the following:
  - (a) Contact by telephone within thirty days of receipt, the persons listed as references by the applicant and document their comments;

**PROCEDURE: 1. Regulatory Specialist contacts references and completes reference statements.  
2. Regulatory Specialist checks system for SLED results.  
3. Once SLED results are received and all other necessary forms are received, Regulatory specialist processes paperwork and submits file to supervisor with recommendation.**

- (b) Issue regular registration if all regulatory requirements have been met;
  - (c) Issue provisional registration when regulations can and will be met within a reasonable time and the deviations do not seriously threaten the health or safety of the children; or
  - (d) Deny the application for registration.
- (6) If registration is issued, Department staff shall mail the registration directly to the potential operator.
  - (7) If Department staff proposes to deny an application for registration, the applicant shall be given written notice by certified mail indicating the reason(s) for the proposed action and the right of the applicant to appeal the decision in accordance with Department fair hearing regulations.
  - (8) If no written appeal is made, the application shall be denied as of the termination of the thirty day period.

**SC Statute 63-13-830**  
**Statement of registration; family child care homes**

- (A) A statement of registration must be issued when the family childcare operator satisfactorily completes the procedures prescribed by this subarticle. The current statement must be displayed in a prominent place in the facility at all times and the registration number must be stated in all advertisements of the family childcare home.
- (B) Registration expires at the end of one year from the date of issuance of the statement of registration. Registration may be renewed according to the procedures developed by the department.
- (C) A person applying for renewal of registration as an operator of a family childcare home registered under this chapter and a person employed or providing caregiver services at a family childcare home registered under this chapter, who has not done so previously, on the first renewal after June 30, 1996, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

Application forms for registration renewal issued under this section must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in Section 63-13-820D) who applies for registration as an operator or a person who applies for registration as an operator who has a person fifteen years of age or older living in the home who has been convicted of a crime enumerated in Section 63-13-820(D) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

- (D) Application forms for registration renewal issued under this chapter by the department for a family childcare home must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of one of the crimes listed in this section who applies for a license as operator, applies for employment with, is employed by, seeks to provide caregiver services with, or is a caregiver at a facility is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.
- (E) The department may withdraw the statement of registration if one or more of the following apply:
  - (1) The health and safety of the children require withdrawal.
  - (2) The facility has enrolled children beyond the limits defined in this subarticle.



**(3) The operator fails to comply with the registration procedures provided in this subarticle.**

***POLICY: When a child care provider notifies the Office of Child Care Licensing that the facility is closing, a written response should immediately be sent to the provider requesting the return of the permit no later than ten (10) days after the stated date of closure. (1/29/09)***

**114-528. C. Procedures for Registration Renewal.**

***POLICY: Two hours of training must be obtained annually. Training hours/credit may not be carried over to the following year. (11/24/10)***

- (1) Department staff shall advise the family day care home operator in writing of the time and requirements for renewal one hundred and twenty days prior to the expiration date of the current registration.

***POLICY: If a provider moves and has completed the two hours of annual training, the training hours will follow the provider to the new location. (11/24/10)***

- (2) The operator shall complete the following:
  - (a) Complete and sign the required number of application forms;

***POLICY: Family Child Care Homes must have an emergency plan which includes a plan for evacuating children in child care, a plan for reuniting families after a disaster, and a plan for special needs children. The Child Care Licensing Emergency Plan Template includes all of these requirements. Completion and use of the template constitutes meeting these requirements.***

- (b) Provide the name(s) of additional person(s) to be contacted as references if original references are no longer active;
- (c) Re-read the Suggested Standards for Family Day Care Homes;
- (d) Furnish a copy of or review with parent(s)/guardian(s) of any new children enrolled in the facility the Suggested Standards;
- (e) Secure a signed statement from each parent/guardian of new enrollees verifying he/she has reviewed a copy of the Suggested Standards;
- (f) Send the required copies of the completed and signed application, the names of any person(s) to be contacted as new references, and signed statements from parent(s)/guardian(s) to the Department.

***POLICY: Two hours of training must be obtained annually. Training hours/credit may not be carried over to the following year. (11/24/10)***

***POLICY: Spouses, household members, and emergency persons who care for children at any time may not receive training on the same topics in two consecutive years. (11/24/10)***

- (3) Department staff shall review the registration renewal materials and shall complete the following:
  - (a) Contact by telephone within thirty days of receipt of references the person(s) listed as new references and document their comments;
  - (b) Issue regular registration if all regulatory requirements have been met;

- (c) Issue provisional registration when regulations can and will be met within a reasonable time and the deviations do not seriously threaten the health and safety of the children; or
  - (d) Deny the application for registration renewal.
- (4) If the registration is renewed, Department staff shall mail the registration directly to the operator.
  - (5) If the application for registration renewal is denied, Department staff shall give the operator written notice by certified mail indicating the reason(s) for the proposed action and the right of the operator to appeal the decision in accordance with Department fair hearing regulations.
  - (6) If no written appeal is made, the Department shall deny the application for registration renewal at the termination of the thirty day period.

**114-528. D. Provisions of the Registration.**

- (1) Registration issued by the Department to a family day care home operator shall be valid for one year from date of issuance, unless withdrawn by the Department or voluntarily surrendered by the operator. If the facility ceases operation, the registration shall be returned to the Department within thirty days of facility closure.

***POLICY: Two hours of training must be obtained annually. Training hours/credit may not be carried over to the following year. (11/24/10)***

***POLICY: Spouses, household members, and emergency persons who care for children at any time may not receive training on the same topics in two consecutive years. (11/24/10)***

- (2) The current registration shall be displayed in a prominent location in the home during the hours of operation.
- (3) The number of children present in the facility at any given time shall not exceed the number specified on the registration.

***POLICY: When a special event or program is being held at the Family Child Care Home and parents are present, the number of children present may exceed the number for which the center is licensed/approved. (1/31/06)***

- (4) A change in location shall automatically void the registration.

***POLICY: If a provider moves and has completed the two hours of annual training, the training hours will follow the provider to the new location. (11/24/10)***

- (5) The Department shall withdraw registration if the health and safety of the children is determined to be at risk or in threat of harm; if the operator cares for more children than the number stated on the registration; or if the operator fails to comply with the registration procedures defined in statute and these regulations.
- (6) An operator whose registration has been withdrawn by the Department shall be given written notice by certified mail. The notice shall contain the reason(s) for the proposed action and shall inform the operator of the right to appeal the decision to the Commissioner in writing within thirty calendar days after receipt of the notice.
- (7) If no written appeal is made, the Department shall withdraw the registration at the termination of the thirty day period.

- (8) The application for original registration or registration renewal may be denied or the registration may be withdrawn by the Department, if the operator, any staff including substitute caregiver(s), volunteer(s) and emergency person(s) or household member(s), abuses or neglects any child as defined in Section 63-7-20(2). South Carolina Code of Laws, 1976, as amended.

#### **114-528. E. Procedures for Securing An Original License/Approval.**

##### **SC Statute 63-13-110**

**One caregiver required to have current certificate for first aid and CPR at childcare facilities.**

During the hours of operation all childcare facilities, except registered family childcarehomes, must have on the premises at least one caregiver with a current certificate for the provision of basic first aid and child-infant cardiopulmonary resuscitation.

***POLICY: Pediatric CPR and First Aid classes meet the training requirements for Kendra's Law. Training must be conducted by a recognized health care organization and must include a hands-on skills component. A copy of the certification card (front and back) must be provided as proof of completion. (11/24/10)***

- (1) For the purpose of applying for a license/approval, the family day care home applicant shall comply with the South Carolina Department of Social Services Suggested Standards for Family Day Care Homes.

***POLICY: Any new prospective child care provider will be offered a formal orientation session by Child Care Licensing and Regulatory Services. This session will be consistent throughout the state and shall include instructions on zoning. (1/31/06)***

##### **PROCEDURE: Applicant receives packet at orientation or by mail.**

- (2) An application for a family day care home license/approval must be completed on appropriate Department forms and shall be signed by the applicant. Department staff shall provide the applicant with the required number of forms, a copy of the current Suggested Standards and Regulations for Family Day Care Homes, a copy of Section 63-13-20 et seq., Code of Laws of South Carolina (Child Day Care Statute), and a copy of sections of the Children's Code related to child abuse and neglect, with an explanation of procedures and information required by the Department.

***POLICY: Spouses, household members, and emergency persons are required to receive two hours of annual training if they provide care for children at any time. (11/24/10)***

##### **PROCEDURE: 1. Applicant submits completed application, fire and DHEC inspection requests to regional office.**

- 2. Regulatory Specialist submits fire inspection request via Internet and DHEC inspection request via courier (with \$60 check made payable to DHEC).**

##### **3. Regulatory Specialist gathers the following:**

- a. All required policies**
- b. Staff List (DSS Form 2964) including household members 15 years of age and older**
- c. Consent to Release Information (DSS Form 2924) and \$8.00 payment for operator, emergency person,**

- any additional staff, and household members 18 years and older
- d. Copy of CPR/First Aid certification that covers all hours of operation
- e. Obtain operator's signature on required paperwork; ensure all forms are completed correctly.
- f. Check household members' file to include Health Statement (DSS Form 2901)

- (3) Department staff shall request in writing that health and fire officials make inspections of the facility.

**PROCEDURE: Regulatory Specialist submits fire inspection request via Internet and DHEC inspection request via courier (with \$60 check made payable to DHEC)**

**PROCEDURE: Upon receipt of the clear fire and complete DHEC inspections, Regulatory Specialist schedules an on-site Provisional Evaluation.**

- (4) After giving the applicant prior notice, Department staff shall make an on-site visit to the proposed family day care home to determine compliance with appropriate regulations by completing a licensing/approval study.

**PROCEDURE: 1. Regulatory Specialist obtains:**

- a. new staff list (DSS Form 2964) and children's list (DSS Form 2963) to verify compliance of all new staff
- b. required documents and forms for DSS file

**2. Regulatory Specialist then inspects facility and outdoor playground area for compliance and observes children during inspection.**

**3. Regulatory Specialist obtains operator's signature on required paperwork. If deficiencies are noted, Specialist completes Deficiency Citation Form (DSS Form 2942) and follows up as needed.**

**4. Regulatory Specialist measures facility and playground to determine capacity.**

- (5) Health and fire officials shall inspect the facility to determine compliance with appropriate regulations and shall put their results in writing on the appropriate forms.

- (6) Department staff shall review the findings of the complete application and shall take one of the following actions:

- (a) Issue a regular license/regular approval if all provisions of the regulations, suggested standards and statute for the operation of a licensed/approved family day care home have been met;
- (b) Issue a provisional license/provisional approval if deficiencies have been cited which would not place children at risk or in threat of harm; or
- (c) Deny the application for a license/approval if cited deficiencies would place children at risk or in threat of harm.

- PROCEDURE: 1. Once SLED results and all other necessary forms are received, Regulatory Specialist submits information to supervisor with recommendation for Provisional License.**
- 2. Regulatory Specialist prints license and mails it to provider; copy is placed in file.**
- 3. Once Provisional License is issued, facility may operate. Specialist will schedule the on-site Full Evaluation Study.**

(7) Failure of Department staff to approve or deny a complete application within ninety days shall result in the granting of a provisional license/provisional approval.

***POLICY: Staff shall process all paperwork and issue the license or registration within 90 days of receiving the last required paperwork. If processing exceeds 90 days, the license or registration must be issued by default, as per statute. (1/31/06)***

(8) If a regular license/regular approval is issued, Department staff shall mail the license/approval directly to the operator.

(9) The license/approval shall state the name of the operator, the address and type of child day care facility, the date on which the license/approval was issued and will expire, and the maximum number of children to be present in the facility at any one time.

(10) Department staff shall notify the operator as follows if a provisional license/provisional approval is issued or an application for a license/approval is denied:

- (a) If a provisional license/provisional approval is issued, Department staff shall notify the operator in writing of deficiencies to be corrected. The deficiencies shall be cited on the back of the provisional license/approval and shall include the appropriate regulation number(s);
- (b) If Department staff proposes to deny an application for a license/approval, the applicant shall be given written notice by certified mail indicating the reason(s) for the proposed action and the right of the applicant to request an appeal within thirty days after the receipt of the notice of denial.

(11) If a facility is found to be in operation after the Department has denied the application for a license/approval and the administrative appeal/review procedure has been completed, Department staff shall request that the circuit solicitor initiate injunctive action.

#### **114-528. F. Procedures for License/Approval Renewal.**

(1) For the purpose of applying for renewal of a license/approval, the family day care home operator shall comply with the South Carolina Department of Social Services Suggested Standards for Family Day Care Homes.

(2) One hundred and twenty days prior to the expiration date of the current license/approval, Department staff shall notify the operator in writing of the time and requirements for renewal and request health and fire inspections.

(3) The same Department actions cited above in E.(2) through (11), are applicable to the renewal process, except that Department staff shall initiate the license/approval renewal process one hundred and twenty days in advance.

**114-528. G. Provisions of the License/Approval.**

- (1) A regular license/regular approval issued by the Department to the family day care home shall be valid for two years from date of issuance, unless revoked by the Department or voluntarily surrendered by the operator; provided, however, that a change in location, ownership or sponsorship of the facility shall automatically void the license/approval.
- (2) A provisional license/provisional approval shall be issued for a period within which the deficiencies must be corrected and within the conditions stated in statute.
- (3) A provisional license/provisional approval shall be amended to a regular license/regular approval when all deficiencies have been verified as corrected.
- (4) An application for a license/approval shall be denied or the license/approval revoked by the Department if the operator, any staff, including substitute caregiver(s) emergency person(s), volunteer(s) or household member(s), abuses or neglects any child as defined in Section 63-7-20(2), South Carolina Code of Laws, 1976, as amended.

***POLICY: Regional Office and Central Office will jointly staff cases to determine if revocation or denial is appropriate. (1/31/06)***

- (5) No family day care home shall have present at any time children in excess of the number for which it is licensed/approved.

**SC Statute 63-13-840****Visits upon expressed concerns by the community; family day care homes.**

**The department shall visit the facility when concerns are expressed by the community regarding the health and safety of the children, child abuse, or enrollment beyond the limits set forth in this subarticle.**

- a. **If the concern is in regard to the health and safety of the children, the department may call on other appropriate agencies (i.e., State Department of Health and Environmental Control, Office of the State Fire Marshal) as necessary to conduct an inspection.**
- b. **If the concern indicates that the child has been abused, the department shall carry out its responsibility as authorized under Article 7 of this chapter.**
- c. **If the visits and inspections verify conditions detrimental to the health and safety of the children or overenrollment, the department shall carry out its responsibility as authorized by Section 63-13-830(C) and Section 63-13-160.**

**114-528. H. Inspections, Consultation and Reporting for Registered and Licensed/Approved Family Day Care Homes.**

- (1) Upon receipt of a regulatory complaint, Department staff shall conduct an unannounced visit to the family day care home to investigate the complaint. If the complaint is written, Department staff shall provide a copy to the operator upon request.

**POLICY:** *When responding to a regulatory complaint at a Family child Care Home or conducting a follow-up visit as a result of a previous complaint, the Regulatory Specialist will conduct a complete inspection of the entire home, including rooms designated by the operator as personal living space. (8/25/08)*

**POLICY:** *Regulatory, accurate complaints received from some professionals who are affiliated with regulating child care facilities are founded as long as the complaint is not of a personal nature. Such allied professionals include but are not limited to the following: Fire Marshals, Law Enforcement, ABC, DHEC and DSS employees other than Regulatory Services.*

- (1) *After the complaint is received by the Region office and recorded in the Child Care Licensing system, a follow-up visit will be made in order to ensure the facility has corrected the deficiencies stated in the complaint. The facility director shall be informed at that time that the complaint is founded even if the deficiency has been corrected.*
- (2) *Upon verification of correction of the deficiencies, an entry will be made in the Child Care Licensing system that states the complaint was founded but deficiencies were corrected. (Revised 4/1/08 policy 1/29/09)*

#### PROCEDURE: REGULATORY COMPLAINTS/INVESTIGATIONS

1. Complaint is received by phone, in writing, or in person
  - If the complaint is received in writing, attach a copy of the document to the DSS Form 2929
2. Identify the facility and determine if it is an illegal operation or a regulated facility
  - If illegal operation, follow procedure for illegal operation
3. Indicate if the complainant wishes to remain anonymous or complete the contact information for the complainant
4. Complete DSS Form 2929 and assemble as much information as possible
  - Determine if the complaint is regulatory. If the complaint is regulatory, continue following the procedures as outlined.
    - If it is not, explain that the Department does not make visits on non-regulatory matters, such as financial or personal concerns (termination of staff, daily rates, etc.)
5. Make referrals to OHAN (see OHAN procedures), DHEC, Fire Marshal, etc. as necessary
6. The Regulatory Specialist must make an unannounced visit within 5 (business) days of receipt of a regulatory complaint unless complaint is in reference to an illegal operation. If complaint is an illegal operation, Regulatory Specialist must then follow illegal operation procedures.
  - Complaints involving a potentially serious risk should receive immediate attention.
    - If there is the possibility of a potentially serious risk, staff with supervisor immediately
    - Make the unannounced visit within the time frame discussed in the staffing
  - Explain to the operator/director the purpose of the visit

7. Document findings on DSS Form 2929
  - Conduct exit interview with the director or operator. Discuss findings and other deficiencies, if any.
8. If deficiencies are cited, complete DSS Form 2942
  - Obtain director's signature on the 2942 and leave a copy with the director.
9. Make follow up visit to verify compliance
10. Enter all founded complaints on website

## PROCEDURE: ABUSE AND NEGLECT COMPLAINTS/INVESTIGATIONS

### 1. Receipt of a Complaint

- a. When a complainant calls the regional office to make a complaint, the complainant is informed that he/she is required to report suspected abuse or neglect to OHAN. The regional office will also obtain as much information from the complainant as possible. After gathering information, the Regulatory Specialist should transfer complainant's call to OHAN immediately. Once the information is gathered from the complainant and the file has been documented, the Regulatory Specialist will report the information to OHAN immediately and thus verify that the complainant reported the information.
  - b. When OHAN notifies the Central Office of a complaint, the Central Office faxes the OHAN report to the regional office.
2. When a complaint is referred to OHAN and the case is accepted, a CPS Investigation Summary Form must be completed and placed in the complaint section of the file.
  3. The Regulatory Specialist should inform the Regional Supervisor regarding the complaint to OHAN.
  4. The Regulatory Specialist must make an unannounced visit within 5 (business) days of receipt of a complaint unless OHAN suggests otherwise. (If complaint is an illegal operation, the Regulatory Specialist must then follow illegal operations procedures.)
    - Explain to the operator/director the purpose of the visit.
    - Document findings on DSS Form 2929.
    - Conduct exit interview with the operator/director and discuss findings and other deficiencies, if any.
  5. If any deficiencies were noted, make follow-up visit to verify compliance.
  6. Enter all founded complaints on website. (11/1/06)

(2) The operator may request consultative visits of Department staff or other qualified persons regarding suggested standards, regulations or other related matters. Department staff shall provide technical assistance to an operator as requested.



- (3) The family day care home operator shall display the current registration or license/approval in a prominent location in the family day care home.
- (4) The operator shall report to the Department when an occurrence takes place which may affect the status of the registration or license/approval.
- (5) The operator shall notify Department staff of a change in location and/or major alternations to the building prior to the occurrence.
- (6) The operator shall report the following information to Department staff:
  - (a) Accidents or injuries requiring professional medical treatment of any child or staff person while at the family day care home, or any death;
  - (b) Major damage to the facility;
  - (c) Charges or convictions of crimes against the operator, household member(s), substitute caregiver(s), emergency person(s) or volunteer(s);
  - (d) Any child protective services reports involving the operator, household member(s), substitute caregiver(s), emergency person(s) or volunteer(s).

**POLICY: The above changes should be reported to the Department within 24 hours of the occurrence, unless an emergency situation warrants otherwise. (1/31/06)**

- (7) The operator shall cooperate with Department staff, law enforcement and other involved agencies during an investigation of child abuse or neglect. Cooperation shall include but not be limited to the following:
  - (a) Participate in an informational conference(s) with Child Protective and Preventive Services staff;
  - (b) Release records of children and staff as requested;
  - (c) Allow access to facility premises for inspection upon request.

**POLICY: Guns and other weapons may not be brought into a child care facility even when the person with the weapon has a permit to carry a weapon. (7/30/09)**

**SC Statute 63-13-850  
Appeals; family childcare homes.**

- (a) A registrant whose statement of registration has been withdrawn by the department must be given written notice by certified or registered mail. The notice must contain the reasons for the proposed action and must inform the registrant of the right to appeal the decision to the director or his designee in writing within thirty calendar days after the receipt of the notice. Upon receiving a written appeal the director or his designee shall give the registrant reasonable notice and an opportunity for a prompt hearing before the director or his designee. On the basis of the evidence adduced at the hearing, the director or his designee shall make the final decision of the department as to whether the statement of registration must be withdrawn. If no written appeal is made, the statement of registration must be withdrawn as of the termination of the thirty-day period.
- (b) At the hearing provided for in this section, the registrant may be represented by counsel, and has the right to call, examine, and cross-examine witnesses, and to otherwise introduce evidence. Parents appearing at the hearing may also be represented by counsel. The director is empowered to require the presence of witnesses and evidence by subpoena on behalf of the appellant or

**department. The final decision of the department must be in writing, must contain the department's findings of fact and rulings of law and must be mailed to the parties to the proceedings by certified or registered mail. A full and complete record must be kept of all proceedings, and all testimony must be reported and need not be transcribed unless the decision is appealed, or a transcript is requested by an interested party. Upon an appeal, the department shall furnish to any appellate, free of charge, a certified copy of the transcript of all evidentiary proceedings before it. Other parties shall pay the cost of transcripts.**

- (c) The decision of the department is final unless appealed by a party pursuant to the Administrative Procedures Act.**