

Title 19 – DEPARTMENT OF HEALTH and SENIOR SERVICES
Division 30 – Division of Regulation and Licensure
Chapter 61 – Licensing Rules for Family Day Care Homes

PROPOSED AMENDMENT

19 CSR 30-61.045 Initial Licensing Information. The department is deleting section (1), renumbering thereafter, and amending previous sections (2) and (3).

PURPOSE: This amendment corrects obsolete references to 19 CSR 40, the Application Form with Department of Social Services letterhead, and Child Care Licensing unit to the current 19 CSR 30, the current form, and the department. This amendment also adds background screening requirements to comply with section 210.1080 RSMo. A statement has been added to show that an application will be provided by the department upon orientation completion. Language was added requiring providers to submit a Safety Plan form when a sex offender resides within a 1,000 feet of the facility. Changes of ownership requirements were added. This amendment deletes language about the 60 day temporary license and adds language regarding a short-term license.

[(1) Licensing Authority.

(A) According to section 210.221(3), RSMo, the department has the authority to issue uniform rules deemed necessary and proper to establish standards of service and care to be rendered by the provider. To implement the rules, the department shall be responsible for inspecting, evaluating and licensing all family day care homes.

(B) The department or any other agency of Missouri that the department asks to assist it, is authorized to make an inspection and investigation of any proposed or operating family day care home, and of any personnel connected with that home to the extent that this inspection and investigation is required to determine if the family day care home will be, or is being, operated in accordance with state statutes and licensing rules for family day care homes.]

[(2)] (1) Persons Subject to Licensure.

(A) Any person(s) planning to offer day care for more than four (4) unrelated children at any one (1) time, except those coming under the exceptions of the law, shall apply for licensure and meet the requirements of the licensing rules before accepting more than four (4) unrelated children for care.

*(B) Licensing rules shall not apply to children related to the provider as defined in [19 CSR 40-61.010(18)] **section 210.211 RSMo**. In order to document the exemption for related children, identifying information shall be on file at the home on related children*

as required by *[19 CSR 40 - 61.135 Admission Policies and Procedures]* **19 CSR 30 - 61.135 Admission Policies and Procedures.**

(C) In *[an incorporated]* a family day care home **owned by a legal entity** the exemption for related children *[does not]* **shall apply** *[as a corporation and cannot have relatives]*. **If more than one member of the legal entity is responsible for the daily operation of the family day care home, the exemption for related children shall only be granted for children who are related to one of the members.**

[(3)] **(2) Licensing Process.**

(A) Upon receipt of an inquiry regarding day care licensing, *[an interview shall be held to discuss the licensing rules and the licensing process]* **an applicant shall complete the inquiry orientation available on the Department's website to learn about the licensing process and rules. An application for licensure shall be provided by the department upon documentation of completion of the inquiry orientation.**

(B) Upon receipt of a completed *[application for license, on the form provided by the department]* **Application For License To Operate Child Care Home form**, a licensing *[investigation]* **inspection** shall be made. **See Application For License To Operate Child Care Home form, promulgated as of 2017, incorporated by reference in this rule, as published by the Missouri Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and available by the department at <https://health.mo.gov/safety/childcare/forms.php>. This rule does not incorporate any subsequent amendment or additions.** If licensing rules are not met within six (6) months, the application shall be void and another application shall be filed.

(C) The licensing *[investigation]* **process** shall include an inspection of the entire premises of the day care home by the licensing representative.

(D) Prior to the granting of a license, the following shall be submitted by the applicant:

1. A sketch or diagram of the home showing the arrangement of the rooms, including the location of toilet and handwashing facilities, the kitchen and the doors. The licensing representative and the applicant shall measure the home jointly;
2. A sketch or diagram of the outdoor play area and placement of equipment, indicating if the area is fenced. The licensing representative and the applicant shall measure the area jointly;
3. Written policies pertaining to the program goals, admission, care and discharge of children;

4. A schedule of daily activities for children;
5. A sample weekly menu;
6. An itemized list of available materials and equipment to be used by children;
7. *[A statement of discipline and guidance policies;]* **A written narrative description of child care practices and concepts, including discipline and guidance policies;**
8. *[The names and addresses of two (2) references not related to the applicant who have knowledge of the applicant's character, experience and ability;]* **Written policies and procedures which clearly establish job responsibilities and lines of administrative authority;**
9. *[If a day care home is as incorporated, the names and addresses of two (2) references for the officer designated to be responsible for the daily operation of the facility and to meet the requirements of the child care provider. The references shall not be related to the officer designated by the corporation;]* **Listing of all household members;**
10. Sample forms used, other than those supplied by the department;
11. *[Evidence of compliance, if applicable, with local or state requirements, or both, any nonpublic water supply or sewage disposal system]* **Evidence of compliance with local or state, or both, sanitation requirements;**
12. *[If the family day care home is incorporated, Articles of Incorporation, Certificate of Incorporation and the Annual Registration Report (if applicable) as issued by the Missouri secretary of state;]* **Documentation as required by the Missouri Secretary of State and state law to verify the legal entity is in good standing if a family day care home is owned by a legal entity;**
13. Required information for assistants; *[and*
14. *[Other information required by the department to make a determination regarding licensure of the family day care home.]* **A written disaster emergency plan;**
15. **A written safe sleep policy, if licensed to care for children under twelve (12) months of age;**
16. **A completed *Safety Plan* form, if a sex offender resides within one thousand (1,000) feet of the family day care home. See *Safety Plan* form, promulgated as of 2018 and incorporated by reference in this rule, as**

published by the Missouri Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and available by the department at <https://health.mo.gov/safety/childcare/forms.php>. This rule does not incorporate any subsequent amendments or additions; and

17. Other information required by the department to make a determination regarding licensure of the family day care home.

(E) Prior to the granting of a license, the provider shall meet the requirements of 19 CSR 30-61.086 Fire Safety.

(F) *[Prior to initial issuance of the license, the child care provider shall request and have on file the results of a criminal record review (CRR) from the Missouri State Highway Patrol for the child care provider, all persons employed by the child care provider, and all adult household members. The child care provider shall request a criminal record review within ten (10) days following the employment of any person and within ten (10) days after any adult becomes a household member. The department may request a criminal record review for any adult present in the family day care home when child care children are present. The criminal record reviews shall include records of criminal convictions, pending criminal charges, and suspended imposition of sentence during the term of probation. Requests for criminal record reviews shall be made on a form provided by the highway patrol.*

1. When the department determines that a nationwide check is warranted, the department may request a criminal record review from the Missouri State Highway Patrol for classification and search of fingerprints for any person seeking employment with the provider or for any person seeking issuance or renewal of a license as provided in sections 43.530 and 43.543, RSMo. Requests for criminal record reviews shall be made on a form provided by the highway patrol that shall be signed by the subject of the request. The provider shall submit the signed form to the department with two (2) sets of fingerprints for each person who is the subject of a criminal record review.

*2. Information received by the provider shall be retained in the individual's file in a confidential manner.] **The facility owner(s), board president or chairperson, and all members of an LLC, shall have qualifying background screening results on file as required by 19 CSR 30-63.020 General Requirement, prior to initial issuance of the license.***

(G) *[The child care provider, other household members and other child care personnel shall be screened for child abuse/neglect prior to initial issuance of the license.] **Child care staff members shall have qualifying background screening results on file as required by 19 CSR 30-63.020 General Requirements, prior to initial issuance of the license. Background screening information received by the provider shall be retained in the individual's file in a confidential manner and available for review.***

(H) Medical examination reports for the provider and child care assistants as required by 19 CSR 30-61.125 Medical Examination Reports, shall be on file at the home and available for review.

(I) Medical examination reports shall be on file at the home within thirty (30) days following the admission of each infant, toddler or preschool child as required by 19 CSR 30- 61.125 Medical Examination Reports. A health report for school-age children shall be on file as required by 19 CSR 30-61.125.

(J) Enrollment information for each child shall be on file at the home as required by 19 CSR 30-61.135 Admission Policies and Procedures.

(K) Identifying information shall be on file at the home for each child to be cared for who is related to the provider and not living in the home as required by 19 CSR 30-61.135 Admission Policies and Procedures.

(L) The child care provider shall not provide care for more than four (4) unrelated children until the home is in compliance with state statutes and licensing rules for family day care homes.

[(M) After approval by a licensing representative and a licensing supervisor, a temporary license may be granted by the department for a period not to exceed sixty (60) days.]

*[(N)](M) The official license shall be granted for up to two (2) years and may be renewed upon reapplication and [reinvestigation] **inspection**. [Until the official license is received, the temporary license shall be posted near the entrance of the home where it may be seen easily by parents or others who visit. Thereafter, the] **The** official license shall be posted near the entrance of the home **where it may be seen easily by parents or others who visit**.*

[(O) The address and telephone number of the Child Care Licensing Unit shall be posted near the license.]

[(P) The granting of a license shall be denied by the director upon failure of the applicant to comply with state statutes and licensing rules for family day care homes.]

[(Q)] (N) The license shall not be transferable and shall apply only to the person(s) and address shown on the license.

*[(R)] (O) **A change of ownership occurs when the facility is sold to a new owner, the owner changes legal entity status, or the ownership is transferred to another legal entity.** [If there is a change of ownership of a family day care home, the new owner(s) shall meet the requirements of the current licensing rules. A licensing investigation shall*

be made as required by 19 CSR 30-61.045 Initial Licensing Information.] **The licensee shall notify the department prior to the date the ownership changes.**

(P) The department may grant a short-term license to the new owner, if required documentation for licensure has been submitted to the department. The new owner shall submit the following in advance of the change of ownership:

- 1. An application for licensure;**
- 2. Statement of intent signed by the previous owner(s) and new owner(s) that documents the date the change of ownership is expected to occur;**
- 3. Listing of all household members;**
- 4. A document indicating the organizational structure of the facility's operation; and**
- 5. Qualifying background screening results for facility owner(s), board president or chairperson, all members of an LLC, and child care staff members, on file as required by 19 CSR 30-63.020 General Requirements.**

(Q) If there is a change of ownership of a family day care home, the new owner(s) shall meet the requirements of the current licensing rules. A licensing inspection shall be made as required by 19 CSR 30-61.045 Initial Licensing Information.

*[(S)]***(R)** The license shall be the property of the department and shall be subject to revocation by the director upon failure of the provider to comply with state statutes and licensing rules for family day care homes. The license shall be returned to the department if revoked, *[or]* not renewed, **or if the owner closes the facility.**

*[(T)]***(S)** If a facility's license is revoked or denied due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility within twelve (12) months after the effective date of revocation or denial or within twelve (12) months after all appeal rights have been exhausted, whichever is later.

*[(U)]***(T)** The number and ages of children a family day care home is authorized to have in care at any one time shall be specified on the license and shall not be exceeded except as permitted within these rules.

*[(V)]***(U)** All day care provided on the premises of a licensed family day care home shall be in compliance with the licensing rules and the conditions specified on the license.

[(W) Upon issuance of the license, a licensing representative shall visit the family day care home throughout the licensing period for supervision and consultation. Both announced and unannounced visits shall be made. Visits shall be at varying times during the hours child care is provided, with the entire premises subject to inspection.]

[(X) Upon the department's receipt of a complaint regarding the facility, a complaint investigation shall be made as determined necessary by the department.]

*[(Y)] (V) The provider shall permit the department access to the facility, premises and records during all [visits] **inspections**.*

[(Z)] (W) A licensed child care provider shall not deny a child admission to, or the benefits of, any program provided by the family day care home on the basis of race, sex, religion or national origin.

[(AA) Licensing records are public records and may be reviewed by appointment with the Child Care Licensing Unit as authorized in sections 610.010–610.150, RSMo.]

AUTHORITY: section 210.221.1(3), and 210.1080 RSMo [Supp. 1998] 2018. This rule previously filed as 13 CSR 40-61.020, 13 CSR 40-61.045 and 19 CSR 40-61.045. Original rule filed March 29, 1991, effective Oct. 31, 1991. Changed to 19 CSR 40-61.045, effective Dec. 9, 1993. Emergency amendment filed Aug. 18, 1993, effective Aug. 28, 1993, expired Dec. 25, 1993. Emergency amendment filed Jan. 4, 1994, effective Jan. 14, 1994, expired May 13, 1994. Amended: Filed Aug. 18, 1993, effective April 9, 1994. Amended: Filed Sept. 12, 1995, effective March 30, 1996. Changed to 19 CSR 30-61.045 July 30, 1998. Amended: Filed Feb. 18, 1999, effective Sept. 30, 1999. Emergency amendment filed February 15, 2019, effective February 25, 2019, expires August 23, 2019. Amended: Filed February 15, 2019.*

**Original authority: 210.221.1(3), RSMo, 1949, amended 1955, 1987, 1993, 1995.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions less than five hundred dollars (\$500.00) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500.00) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this amended rule with Sue Porting, Department of Health and Senior Services, Section for Child Care Regulation, PO Box 570, Jefferson City, MO 65102, by faxing 573-526-5345, or via e-mail at Sue.Porting@health.mo.gov . To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*