

2014

LEGISLATIVE CHANGES IMPACTING FAMILY CHILD CARE

The 2014 Legislature passed amendments that affect family child care license holders. The laws are available on the Office of the Revisor of Statutes website, www.revisor.mn.gov/statutes/. License holders are responsible for reviewing the full text of the amended licensing requirements, and must take action necessary to ensure compliance with the applicable requirements upon the provisions becoming effective.

Subject	Statute	Effective Date	Summary of Change
New Applications	245A.04 Subd. 1 245A.08, Subd. 5a	May 10, 2014	All applicants must provide taxpayer identification numbers, federal employer identification number if the applicant has employees and complete business name and doing business as (d/b/a), if any, as registered with the Secretary of State. An application must be denied if any controlling individual had a previous license denied and two years have not passed since the denial. The addition of a new co-applicant does not constitute a substantial change in the conditions that caused the previous denial.
Commissioner's Right of Access	245A.04 Subd.5	May 10, 2014	The Commissioner must be given access to personnel records of a license holder's current or former staff. Upon request, the license holder must provide the Commissioner (DHS) with verification of documentation of staff work experience, training, or educational requirements.
Crib Documentation	245A.146, Subd.3, 4	May 10, 2014	New language has been added to meet new federal standards for mesh and fabric-sided play yards/pack and plays along with new monthly inspection and documentation requirements. Obsolete language for crib inspections of rigid construction has been deleted. (*Please refer to the June 2014 version of the monthly crib inspection forms.)
Background Studies (BGS)	245C.04, Subd. 1	May 10, 2014	License holders must initiate a new background study on an individual who returns to a position requiring a background study following an absence of 120 or more consecutive days. License holders who have discontinued providing services for 120 or more consecutive days must initiate a new background study when they begin providing services again.
BGS	245C.04 Subd.7 245C.05, Subd. 6	May 10,2014	When an individual involved with the program undergoes a legal name change, the license holder must initiate a new background study. Law enforcement agencies are required to provide arrest and investigative data to DHS.
BGS	245C.20, Subd. 1	May 10,2014	In addition to documenting the date a background study was initiated, a licensed program must now document <u>the date the subject of the background study first has direct contact with persons served by the program.</u>
Public Data on License Holders	13.46, Subd. 4	May 10, 2014	The general nature of a complaint or allegation leading to a temporary immediate suspension (TIS) and the existence of settlement negotiations after a denial or licensing sanction has been issued is now public. A maltreatment or disqualification of a controlling individual is public if it was the basis for a denial or licensing sanction.
Subject	Statute	Effective Date	Summary of Change

School Age Definition	245A.02, Subd. 19	July 1, 2014	Now defines “school age” as a child who is five years old, but younger than eleven. (*Children who are four years old on July 1, 2014, and who have been previously determined to be school age under current law, will remain classified as school age after July 1, 2014. Any new children enrolled on or after July 1, 2014, must be five years old to be considered school age.)
Reduction of Risk of SUID	245A.1435	July 1, 2014	The issuance of a correction order re: an infant sleep space violation is limited to only those situations in which there is evidence that a violation occurred when an infant was present.
Electronic Cigarettes	144.414, Subd. 2, 5	July 1, 2014	The definition of smoking includes the use of electronic cigarettes. The use of electronic cigarettes is prohibited in all facilities licensed by the Commissioner of Human Services (DHS).
Contractors for FCC Homes	245A.1511	July 1, 2014	Contractors (e.g. substitute services) who serve multiple family child care license holders can ask the county agency to retain their background study results and documentation of compliance with training requirements.
Contractors for FCC Homes	245C.04, Subd. 7	July 1, 2014	Contractors who serve multiple license holders in a <u>single county</u> and who will have direct contact with children will only need to have one background study completed which will be transferrable to all programs in that county. The background study must be repeated every two years. The license holders must contact the agency to verify the background study.
Training Requirements	245A.50, Subd. 5	January 1, 2015	Sudden Unexpected Infant Death (SUID) and Abusive Head Trauma (AHT) trainings may be provided in a single course of no more than two hours, and may be completed in person or on-line at least once every two years. On years when the training is not required, the license holder must receive SUID/AHT training through a video which must be developed or approved by the Commissioner (DHS).
Cardiopulmonary Resuscitation	245A.50, Subd. 4	May 10, 2014	Clarifies that CPR training must include techniques for infants and children.
Disqualification & Reconsideration	245C.22, Subd. 1 245C.23, Subd. 2 245C.29, Subd. 2	May 10, 2014	The Commissioner shall respond in writing to requests for reconsideration within 30 working days of receipt of a complete request for reconsideration that includes all required information. A disqualified individual may continue to work under continuous, direct supervision pending the outcome of a hearing if the license holder was not previously ordered to remove the individual from direct contact. A license holder must immediately remove an individual whose disqualification has not been set aside and who does not have a right to a hearing. A disqualification is conclusive if an individual does not challenge the correctness of the determination.
Hearings	245A.08, Subd. 2a 256.045, Subd. 3b	May 10, 2014	A disqualified individual must have timely requested reconsideration of their disqualification in order to have it included in the scope of a contested hearing. If a disqualification is based solely on a conviction or is conclusive under 245C.29 (maltreatment), the individual does not have a right to a hearing.
Controlling Individuals	245A.02, Subd. 5a	May 1, 2014	A site director who has no ownership interest in the program is not considered to be a “managerial official”, and therefore not a controlling individual.
Subject	Statute	Effective date	Summary of Change

Temporary Immediate Suspension (TIS)	245A.07, Subd. 2 & 2a	May 10, 2014	<p>A TIS may be issued if the program is operating under appeal of a revocation order and the Commissioner identifies one or more subsequent violations which may adversely affect the health and safety of children in care.</p> <p>When an appeal of a TIS is withdrawn or dismissed, the Commissioner must issue a final order affirming the TIS within ten calendar days of receipt of the withdrawal or dismissal.</p>
Licensing Sanction Appeals other than TIS	245A.07, Subd. 7 245A.075	May 10, 2014	<p>The Commissioner must request assignment of an administrative law judge within fifteen working days of receiving an appeal of a licensing sanction.</p> <p>The administrative law judge must conduct the hearing within ninety calendar days after the request for assignment, unless an extension is requested by either party and granted for good cause or for purposes of settlement discussion.</p> <p>In no case shall one or more extensions be granted for a total of more than ninety calendar days unless there is a criminal or juvenile court action pending against the license holder or other individual subject to a background study.</p> <p>The Commissioner may issue a denial, conditional or revocation of a license based solely on the disqualification of an individual which was not set aside if no variance was granted.</p>