

## Proposed Rule Changes

### **SAFETY STANDARDS FOR CHILDREN'S CENTERS**

#### PREAMBLE

The intent of this chapter is to establish safety standards for facilities that meet the definition of a children's center pursuant to Iowa Code Chapter 237B. This Iowa Code Chapter says the standards established shall be broad facility standards for the protection of children's safety and not program standards or other requirements involving program development or oversight of the programs provided to the children served by children's centers.

In the event a children's center is subject to licensure, certification, registration or regulation pursuant to another provision of law, the other provision of law shall control and take precedence over these rules. These rules do not supersede or take the place of other applicable regulatory provisions.

Chapter 237B requires the Department of Human Services to establish certification or licensure standards, but does not delegate regulatory or enforcement authority to the Department or any other state agency. Thus, these rules do not establish a certification or licensure process or provide for enforcement.

These rules cover the following areas of: Definitions; Application of the standards; Providing for basic needs; Protection from mistreatment, physical abuse, sexual abuse, and neglect; Record checks; Seclusion and restraints; and, Health, safety, emergencies, and buildings.

#### **Definitions**

1. "Children" means persons less than eighteen years of age.
2. "Children's center" means a privately funded facility designed to serve seven or more children at any one time who are not under the custody or authority of the department of human services, juvenile court, or another governmental agency, and that offers one or more of the following services:
  - a. Child Care
  - b. Child care for children with a chronic illness
  - c. Respite care
  - d. Family support services
  - e. Medical equipment
  - f. Therapeutic day programming
  - g. Educational enrichment
  - h. Housing

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3. “Chemical restraint” means the use of chemical agents including psychotropic drugs as a form of restraint. The therapeutic use of psychotropic medications is not considered chemical restraint.
4. “Control room” means a locked room used for treatment purposes.
5. “Mechanical restraint” means restriction by the use of a mechanical device of a child’s mobility or ability to use the hands, arms, or legs.
6. “Physical restraint” means direct physical contact required on the part of a staff member, volunteer, or others who perform duties under a subcontract with the children’s center to prevent a child from hurting self, others, or property.

### **Application of the standards**

These rules shall apply to all facilities that meet the definition of a children's center pursuant to Iowa Code Chapter 237B. In the event a children's center is also subject to licensure, certification, registration or regulation pursuant to another provision of law, such other legal requirements shall take precedence over these rules.

### **Providing for basic needs**

Children’s centers shall do the following: offer nourishing food and water; provide opportunities for adequate sleep, exercise, cleanliness, and health maintenance; and, assure adequate shelter for children in its care. A children’s center shares responsibility for these things with parents, guardians, or other primary caretakers depending upon the amount of time the child spends in the children’s center each day.

### **Protection from mistreatment, physical abuse, sexual abuse, and neglect**

Children’s centers shall have written policies that prohibit mistreatment, physical abuse, sexual abuse, and neglect of children and specify reporting and enforcement procedures for the children’s center.

Children’s centers shall have written policies regarding discipline. These policies shall define types of discipline, the reasons they would be used, and be discussed with staff, volunteers, or others who perform duties under a subcontract with the children’s center and with parents or guardians before children are admitted to the children’s center. The state of Iowa prohibits child abuse (defined in Iowa Code Chapter 232), criminal assault, and other criminal acts of violence and children’s centers shall not use discipline that amounts to child abuse or a criminal act of violence.

Children’s centers shall not employ or use as a volunteer or subcontractor any person that poses any threat to the children in its care.

Children’s Centers shall have written policies related to children’s communication with their parents, guardians, and other outside authorities.

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Children's Centers shall have written policies related to children's ability to receive visitors that have been approved by their parents or guardians.

Children's Centers shall have written policies related to privacy and confidentiality. Children shall be allowed reasonable privacy. The children's center shall also afford children and their families privacy and confidentiality unless to do so would jeopardize the child's health or safety.

Children's Centers shall have written policies regarding children's ability to keep personal belongings with them, such as clothing, pictures, and other items, that keep them connected to their families and community.

Children's Centers shall have written policies regarding children's ability to participate in normal community activities that have been approved by their parents or guardians.

The children's center shall share their written policies related to communication, visitors, personal belongings, and participation in community activities with children's parents or guardian before a child is admitted to the children's center.

Children's centers shall not impose unreasonable rules and restrictions that prevent communication and connections with parents, guardians, other family members, or authorities.

### **Record checks**

Children's center's shall determine for any owner, director, staff member, volunteer, or others who perform duties under a subcontract with the children's center with direct responsibility for children or with access to a child when the child is alone, and for anyone living in the children's center who is 14 years of age or older, whether they have any founded child abuse reports, founded dependent adult abuse reports, or criminal convictions or have been placed on the sex offender registry. A written, signed and dated statement that discloses any substantiated instances of child abuse, neglect or sexual abuse committed by the person; any substantiated instances of dependent adult abuse; and, any convictions of crimes involving the mistreatment or exploitation of a child shall be submitted to the children's center. Children's centers may request additional information from the central abuse registry or the Iowa department of public safety.

If a record of criminal conviction or founded child abuse or founded dependent adult abuse exists, the children's center shall evaluate the crime or founded child abuse or dependent adult abuse to determine whether or not the crime or founded child abuse or founded dependent adult abuse merits prohibition of employment or any voluntary or subcontracted position. The evaluation shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuses committed by the person involved.

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### **Seclusion and restraints**

Children's centers shall not physically restrain a child unless it is necessary to protect the child or others from serious harm. Physical restraint must be conducted in a standing position whenever possible. Prone restraint is prohibited. Children's centers shall not put a child into a time-out seclusion for more than one hour and a child shall never be secluded in an area that is locked or out of the view of staff, volunteers, or others who perform duties under a subcontract with the children's center. At no time shall a children's center use a control room, mechanical restraint, or chemical restraint.

### **Health, safety, emergencies, and buildings**

#### **A. Health**

Children's centers shall obtain, store, prepare, and serve food and water free from contamination.

Children's centers shall have written health policies that include the criteria for excluding a sick child from the center.

Children's centers shall have written policies and procedures related to disease control and the use of universal precautions with the handling of any bodily excrement or discharge, including blood and breast milk. Children's centers shall take precautions to prevent the spread of infectious and communicable disease.

Children's centers shall seek immediate medical attention for a child when it is necessary to assure that the child remains healthy.

Children's centers shall have written policies and procedures to assure that staff, volunteers, or others who perform duties under a subcontract with the children's center demonstrate clean personal hygiene sufficient to prevent or minimize the transmission of illness or disease.

Children's centers shall be required to report to public health any reportable diseases.

Children's centers shall have written policies regarding physical examination reports or health status statements for all children in care.

Children's centers shall have written policies and procedures for the dispensing, storage, authorization, and recording of all prescription and nonprescription medications.

Children's centers shall assure that a clearly labeled first-aid kit is available and easily accessible to staff, volunteers, or others who perform duties under a subcontract with the children's center at all times whenever children are in the center, in the outdoor play area,

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and on field trips. The kit shall be sufficient to address first-aid related to minor injury or trauma and shall be stored in an area inaccessible to children.

Children's centers shall have written policies about reporting illness or injury to parents or guardians and these policies shall be shared with parents or guardians before children are admitted to the children's center. Incidents resulting in a serious injury to a child or significant change in health status shall be reported immediately to the parent or guardian.

Children's centers shall have written policies regarding smoking and tobacco use that comply with Iowa state law.

### **B. Safety**

Children's centers shall maintain a staff to child ratio and follow safe practices that are based on the age and needs of the children in care to assure adequate supervision and child safety.

All poisonous or caustic drugs or materials shall be plainly labeled, stored separately from other drugs in a specific well-illuminated cabinet, closet, or storeroom, and be accessible only to a children's center's authorized persons. The manner of storage shall prevent accidental or intentional ingestion. Poison control centers' telephone numbers shall be posted in prominent locations and readily available.

Children's centers shall have written policies regarding fishing ponds, lakes, or any bodies of water located on or near the children's center's grounds and accessible to children. All swimming pools shall conform to state and local health and safety regulations and adult supervision shall be provided at all times when children are near or in the water.

Children's centers shall have written policies regarding transportation of a child that assure compliance with Iowa Code section 321.446 regarding child restraint devices. Drivers of vehicles shall possess a valid driver's license and shall not operate a vehicle while under the influence of alcohol, illegal drugs, or prescription or nonprescription drugs that could impair their ability to operate a motor vehicle. All vehicles used for children's center activities must be maintained in safe operating condition.

Animals kept on site shall be in good health with no evidence of disease, be of such disposition as to not pose a safety threat to any person, and be maintained in a clean and sanitary manner.

Offensive or dangerous weapons and ammunition shall be kept under lock and key and inaccessible to children. When these are used, children's centers shall have written policies regarding their purpose, use, and storage.

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### **C. Emergencies**

Children's centers shall have written emergency plans for responding to evacuations, fire, tornado, flood, blizzards, other weather incidents, power failures, bomb threats, chemical spills, earthquakes, or other natural or man-made disaster that could create structural damage to the children's center or pose health or safety hazards. The plans should also include guidelines for responding to situations involving intruders within the children's center and grounds, intoxicated persons, lost or abducted children, and evacuations. Evacuations shall be practiced periodically.

The emergency plans shall include procedures for annual training to staff, volunteers, or others who perform duties under a subcontract with the children's center, regarding the contents and implementation of the plans.

Children's centers shall have written policies and procedures for medical and dental emergencies. The children's center shall have sufficient information and authorization to meet the medical and dental emergencies of children.

Emergency telephone numbers shall be readily available, including emergency telephone numbers for parents or guardians.

### **D. Buildings**

Children's centers shall assure the facility and grounds, playground surfaces and other areas, and all related equipment are safe and free from hazards. The children's center's exits shall be unobstructed at all times.

Children's centers shall comply with requirements established by the fire marshal for the applicable type of occupancy and shall comply with any applicable additional fire safety requirements established by local ordinance, including fire inspections. Smoke detectors shall be installed on all levels of the children's center.

Children's centers shall be equipped with fire extinguishers.

Children's centers shall be structurally sound. Any new facility or existing facility which is extensively renovated shall be constructed in compliance with applicable requirements of the State of Iowa Building Code established pursuant to Iowa Code Chapter 103A and with any local building code in force at the time of construction.

Children's centers located in a building built before 1960 shall conduct a visual assessment for lead hazards that exist in the form of peeling or chipping paint. If the presence of peeling or chipping paint is found, the paint shall be presumed to be lead-based paint unless a certified inspector as defined in department of public health rules at 641—Chapter 70 determines that it is not lead-based paint. In the absence of the determination that it is not lead based paint, children's centers shall use safe work

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methods as defined by the state department of public health to eliminate human exposure or likely exposure to lead-based paint hazards.