

INTERPRETIVE GUIDELINES

Family and Group Child Care Facilities



Healthy People. Healthy Communities.

Department of Public Health & Human Services

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Using Interpretive Guidelines

The Interpretive Guideline document is a guide intended to assist Child Care Licensors (CCL) with interpreting the regulations set forth for child care facilities. This assists with consistent application of the regulations.

This document can also assist child care providers and caregivers in developing a better understanding of the regulations as well as what is being looked at by the CCL during a licensing inspection. It can also be used as a training resource for new and existing caregivers.

The format in which this document is designed is consistent with how the CCL's inspection tool is organized and can be used by the provider during the inspection. This document is also grouped by topic rather than rule number so the provider can easily use the document to go through the facility and determine whether the facility is in compliance.

At the end of each section, there is a box titled Compliance Determination which lists the most common methods used by the CCL in order to determine compliance. There may be additional methods used to determine compliance depending on the circumstances at the time of the inspection.

Please note:

This document does not cover every scenario as there may be certain circumstances that could contribute to the department's findings and/or interpretation. If you are unsure whether you meet a particular requirement, it is important that you talk with your local licensor and determine whether compliance has been met.

STAFF RATIO

1. LICENSE

- 37.95.106(6)** A day care facility may not provide care for more than the number of children permitted at any one time by its day care license or registration certificate.

Interpretation:

- What is the number of children approved on the certificate?
- Is the provider over that number?
- What about approved overlap times?
- Is the provider currently in that overlap time?
- CCL can verify by counting the number of children in care.

- 37.95.702(2)** There shall be no more than six children under the age of two in a group day care home or three children under the age of two in a family day care home at any time, unless care is provided exclusively for children under the age of two.

Interpretation:

- How many children under age 2 are present?
- FDC = Are there children over the age of two in attendance? If so, are there 3 or less children under age 2 at the facility?
- GDC = Are there children over the age of two in attendance? If so, are there 6 or less children under age 2 at the facility?

- 37.95.702(3)** A family day care facility that cares exclusively for children under the age of two may not have more than four children present. A group day care facility that cares exclusively for children under the age of two must have no more than four children present unless there are two caregivers.

- How many children under age 2?
- FDC = Are there 4 or less children under 2 at the facility?
- GDC = Are there 8 or less children under 2 at the facility?
- There should be no children over age 2.

- 37.95.702(5)** Except for approved overlap care, the provider may not provide care for a child if caring for that child would cause the provider to exceed the number of children the provider is registered to care for on the registration certificate.

Interpretation:

- What is the number of children approved on the certificate?
- Is the provider over that number?
- What about approved overlap times?
- Is the provider currently in that overlap time?

Compliance Determination:

- CCL can verify by counting the number of children in care.
- CCL can review written records and documentation.

2. OVERLAP

- **37.95.702(1)** Except for approved overlap care there shall be at least 2 caregivers caring for the children at all times when there are more than 6 children present at the home.

Interpretation:

- Is the secondary caregiver present?
- Have they been approved by the department?
- How many children are present? Worker observation will determine compliance with this rule.
- Is this an approved overlap time?
- Facilities may not provide care to more than three children under age two when only one caregiver is present.

- **37.95.718(4)** Overlap care may be approved by the department in situations, such as before and after school, when the number of children in care over 3 years of age would exceed, for a short period of time, the registered capacity.

Interpretation:

- Is the provider requesting approval for additional children over the license capacity?
- Has the provider designated the number of hours and which hours these children would be in attendance?
- Are the additional children over the age of three?
- Has the provider submitted a request in writing?
- Does the provider have insurance coverage for the additional children?
- Does the written plan clearly specify the hours of overlap care?
- Has the plan been submitted—the plan should clearly show when overlap is going to be used, how it is going to be used and the children who will be designated as OL and the staff who will be responsible during that time.

- **37.95.718(4)(a)** Overlap of children under 3 years of age shall not be permitted.

Interpretation:

- Are the overlap children all over 3 years of age?
- Worker will verify ages of children in care.

- **37.95.718(4)(b)** Overlap care shall not exceed 3 hours total in any day care day.

Interpretation:

- CCL able to verify overlap hours on certificate and if OL is occurring while on site, the licensor should be able to verify/validate/determine compliance.

- **37.95.718(4)(c)** Group day care facilities may be approved to provide overlap care for up to 4 additional children during the approved overlap time if there are at least 2 caregivers providing direct care at any time there are more than 8 children being cared for at the facility.

Interpretation:

- Has the department approved the plan? Worker will verify by reviewing certificate.
- Does the plan meet all contingencies as outlined above?
- Is there sufficient square footage to accommodate the overlap children?
- During approved overlap time at a group facility, 1 provider can be present with 8 children. Once the 9th child arrives, then 2 staff must be present.

- **37.95.718(4)(d)** Family day care homes may care for 2 additional children during the approved overlap time.

Interpretation:

- Has the department approved the plan? Worker will verify by reviewing certificate.
- Does the plan meet all contingencies as outlined above?
- Is there sufficient square footage to accommodate the overlap children?

- **37.95.718(4)(f)** There must be 35 square feet per child of indoor space including the additional children during approved overlap hours.

Interpretation:

- Has the provider submitted a square footage plan?
- Does the square footage plan allow for 35 square feet per child including children during overlap?

- **37.95.718(4)(g)** If a provider wishes to provide overlap care, the provider shall file a written plan for this care stating the specific hours in which the overlap will occur and the arrangements for providing adequate activities and supervision to all children during this period.

Interpretation:

- Has the overlap form been submitted and approved?
- Has the provider addressed supervision?

- **37.95.718(4)(h)** Overlap care shall not occur until the provider has received written approval of this plan from the department.

Interpretation:

- Has the provider received the written approval for overlap?

- **37.95.718(4)(i)** Group day care homes which exceed 12 children during approved overlap may be subject to inspection by the state fire prevention and investigation bureau and the state sanitarian.

Interpretation:

- This will be determined by the state or local fire marshal.

Compliance Determination:

- CCL can verify by counting the number of children in care.
- CCL can review written records and documentation.

BUILDING/FIRE REQUIREMENTS

3. INSIDE FACILITY

- **37.95.121(1)** Cleaning materials, flammable liquids, detergents, aerosol cans, and toxic materials must be kept in their original containers and in a place inaccessible to children. They must be used in such a way that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children.

Interpretation:

- These types of materials include but are not limited to: cleaning materials, detergents, hand sanitizer, aerosol cans, pesticides, lawn care chemicals, and health and beauty products (hairspray, nail polish, etc.).
- Where are these materials stored?
- Are they inaccessible and secured from accidental contact with children? For example, these items could be stored in a locked cabinet in the laundry room.
- How are they secured?
- If under sink cabinet is used, does latching device work prohibit access and does it work properly?

- 37.95.121(2)** No extension cord will be used as permanent wiring. All appliances, lamp cords and exposed light sockets must be suitably protected to prevent electrocution.

Interpretation:

- An exception would be a UL listed surge protector such as that used with a computer, stereo or other electronic device.
- Are the lamp cords inaccessible to the children?
- Has the provider used a cord roll up device or raceway (runner that covers the cord) to keep the cord safely away from the children?

- 37.95.121(4)** Guns must be kept in locked storage. Ammunition must be kept in locked storage separate from the gun.

Interpretation:

- Guns and ammunition must be locked separately.
- CCL verifies where guns and ammunition are stored regardless of whether it is in area used for child care.

- 37.95.121(5)** The indoor and outdoor play areas must be clean, reasonably neat, and free from accumulation of dirt, rubbish, or other health hazards.

Interpretation:

- Is clean laundry stored in closets/dresser drawer?
- Are countertops observed to be free from accumulation of non-food items (i.e. mail, cleaners, magazines and various clutter)?
- Is dirty laundry in laundry room or in a laundry basket?
- General good housekeeping practices are used: no dirty dishes piled up in the sink, carpets are vacuumed on a regular basis, no garbage "spilling over", floors are free of excess dirt, etc.
- CCL can take into consideration events of the day and time of visit when determining compliance. (i.e., Did visit occur right before or immediately following a meal?)

- 37.95.121(11)** The Emergency Montana Poison Control Center number, 1 (800) 222-1222 must be posted at all telephone locations at the day care facility.

Interpretation:

- Is this number located by each phone in the facility or centralized location such as a bulletin board? Can CCL observe where it is located?
- Is it easily readable?
- Are staff aware of where phone number is located? This is verified by interview with staff.

- 37.95.127(4)** Bathtubs, buckets and other water receptacles shall be emptied immediately after use.

Interpretation:

- Are there standing bodies of water contained in these types of receptacles?
- Can CCL observe water in bathtub, buckets or other containers?
- If worker observes standing water accessible to children, worker will request that it immediately be emptied.

- **37.95.705(1)** The day care home must have a minimum of 35 square feet per child of indoor space, not including food preparation areas of the kitchen, bathrooms, toilets, offices, staff rooms, corridors, hallways, closets, lockers, laundry areas, furnace rooms, cabinets, and storage shelving spaces, as well as 75 square feet per child of outdoor play space.

Interpretation:

- Has the provider submitted a square footage plan?
- CCL will measure space in all new facilities and upon any changes to spaces being used.
- This rule excludes those areas of the facility that cannot be counted toward the 35 square feet of usable space: hallways, offices, kitchens, and bathrooms.
- Child behavior tends to be more constructive when sufficient space is organized to promote the practice of developmentally appropriate skills.
- Crowding has been shown to be associated with an increased risk of developing upper respiratory infections.

- **37.95.705(10)** Protective receptacle covers must be installed on electrical outlets in all areas occupied by children under 5 years of age.

Interpretation:

- Verify by observation that covers (protective receptacle) are installed.

- **37.95.705(11)** The home and grounds used by children must be maintained to ensure the following:
(a) The building is in good repair;

Interpretation:

- Does the provider have a written maintenance plan?
- Can the provider inform the licensing agent what the plan is?
- If they have no written plan, verify through discussion that there is plan of maintenance.
- Good repair--building is structurally safe--determined by observation; there are no loose structures that could cause harm to staff or children; Questions could be referred to a local building inspector and/or program officer.

- **37.95.705(11)(b)** The floors, walls, ceilings, furnishings, and other equipment are reasonably clean;

Interpretation:

- Does the provider have a written cleaning schedule?
- The materials used to construct the walls, ceiling, etc. are able to be cleaned easily.
- Materials are such that when they are cleaned, they will withstand repeated use of the cleaning products.
- What is direct observation? Re: Cleanliness?

- **37.95.705(11)(c)** The building and grounds are reasonably free of insects, rodents and other vermin;

Interpretation:

- Are insects observed?
- Are there wasp nests in the eaves of the building?

- Are there mouse droppings in the drawers or cupboards?

- **37.95.705(11)(d)** The children attending the facility shall not be exposed to paint containing lead in excess of .06%.

Interpretation:

- Provider should show documentation that any paint used prior to 1978 did not contain lead.
- If the paint does contain lead, then a remedying process (stripping paint and repainting) should begin immediately.
- In the remedying process, providers should verify that non-lead latex paint was not painted over the lead based paint.
- Providers should be careful that there are no paint chips accessible to children.

- **37.95.708(1)** Each home must have hot and cold running water with at least one toilet provided with toilet paper and one sink provided with soap and paper towels.

Interpretation:

- Toilet paper, paper towels and soap is available in the bathroom.
- The worker can test the water through the tap to determine if the facility has both hot and cold running water.

- **37.95.708(2)** Each facility must have a working telephone. Those facilities which have an unlisted number must make this number available to the parents and emergency contact persons of the children in care, and the appropriate regional or local offices of the department.

Interpretation:

- Does the facility have a phone (observation)?
- Is the unlisted number available to the worker and the parents?
- Verify the number for correctness.
- If cell phone is used, is it always with the children?

- **37.95.708(3)** Telephone numbers of the parents, the hospital, police department, fire department, ambulance, and the emergency Montana poison control center (1 (800) 222-1222) must be posted by each telephone.

Interpretation:

- Are the numbers posted by each phone at the facility or centralized location such as on a bulletin board?
- Are staff aware of where phone numbers are located? This should be verified by interviewing with each staff person.

- **37.95.708(6)** An adequate and safe sewage disposal system shall be provided and used as approved by the state or local health department.

Interpretation:

- Is the provider's sewage system a municipal system?
- Is it a septic system?
- If the provider's system is new, then they must show documentation of the sanitarian approval.
- If the system is an existing system, have there been any repairs within the last year?
- If so, then the provider must show documentation of the sanitarian's approval of the repairs.

- **37.95.708(7)** Garbage cans shall be provided in sufficient number and capacity to store all refuse between collections and shall be corrosion resistant, fly tight, watertight and rodent proof with lids. Kitchen garbage containers must have lids or be stored in an enclosed area.

Interpretation:

- Are there enough garbage cans and are they of sufficient size to meet the demand of the facility?
- Does each garbage can have a lid to cover the refuse?
- Is the kitchen garbage can covered or in an enclosed area?
- Is each can sealed tightly to prevent entry of vermin?
- Is bagged or loose garbage stored outside the canisters?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through interview with provider and staff.

4. FIRE SAFETY

- **37.95.706(2)** A fire extinguisher must be easily accessible on each floor level. The minimum level of extinguisher classification is 2A10BC. Fire extinguishers shall be mounted near outside exit doors.

Interpretation:

- A 2A10BC is the minimum extinguisher rating appropriate for day care facilities.
- Through observation, the worker can determine if this requirement is met.
- Is the extinguisher accessible and mounted near an outside exit door? This makes the device easily accessible at all times.
- Is the extinguisher properly charged? (Extinguishers should be tested annually)
- Promote philosophy that in case of fire, get children and staff out of facility first, instead of trying to put fire out.

- **37.95.706(3)** All day care facilities must have operating UL smoke detecting devices on each floor of the facility, installed in accordance with the manufacturer's specifications. Smoke detectors must be installed in front of the doors to stairways and in corridor of all floors occupied by the day care. Smoke detectors must be installed in any room in which children sleep. If individual battery-operated smoke detectors are used, the following maintenance is required:

Interpretation:

- Smoke detectors are located in each room where children sleep.
- Are smoke detectors located on each floor? Where are they located?
- CCL may check fire drill form to verify batteries tested.
- If necessary, CCL may need to check the batteries his/herself. However, do not test them while children are sleeping. Make arrangements with the provider to have children go outside or engage in some other type of activity so that the testing does not frighten the children.

- **37.95.706(3)(a)** Smoke detectors must be tested at least once a month to ensure that they are operating correctly and have new operating batteries installed at least once each calendar year; and

Interpretation:

- Does the provider test once a month? How?
- Is Fire Safety and Evacuation Plan completed? CCL will review.

- Testing conducted by the provider should be done in accordance with the manufacturer's recommendation. This will be determined by provider interview.

- **37.95.706(3)(b)** The placement and number of detectors in a home or building must be adequate to awaken all sleeping occupants.

Interpretation:

- Is placement of detectors sufficient?

- **37.95.706(4)** All wood burning stoves must meet building codes for the installation and use of such stoves. If used during the hours of care, the stove must be provided with a protective enclosure.

Interpretation:

- Inspections must be documented--the stove does not pose a hazard as installed.
- If the fire Marshall will not conduct the inspection, then a certified chimney sweep, a local building inspector or other appropriate official (such as an insurance agent) can perform the check.
- The stove needs to be enclosed in such a manner as to prevent any child from touching the surface of the stove if the stove is used during child care hours.
- Through observation, the CCL can determine if the stove should be enclosed.

- **37.95.706(5)** No portable electric or unvented fuel-fired heating devices are allowed. All radiators, if too hot to touch, must be provided with protective enclosure.

Interpretation:

- Portable electric heating appliances cannot be used during child care hours.
- Are there un-vented fuel fired devices (such as propane heaters)? Un-vented means that there is no means of outside release of the fuel used to heat the facility.
- Are radiators hot if they are touched? If yes, the radiator will be enclosed so that no child can be burned if they were to touch it.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through interview with provider and staff.

5. EQUIPMENT

- **37.95.121(8)** Toys and objects with a diameter of less than 1 inch (2.5 centimeters), objects with removable parts that have a diameter of less than 1 inch (2.5 centimeters), plastic bags, Styrofoam objects, and balloons must not be accessible to children who are still placing objects in their mouths.

Interpretation:

- Through observation, the worker can determine if this requirement is met.
- Provider should regularly go through toys to make sure there are no broken toys or loose pieces that may be a choking hazard.
- Use of a "choke tube" or toilet paper tube can be used to measure whether a toy or piece of toy is a choking hazard.

- **37.95.121(12)** Use of waterbeds, water mattresses, gel pads, or sheepskin covers for children's sleeping surface is prohibited.

Interpretation:

- A provider MAY NOT use a waterbed, a water mattress, a gel pad, or sheep skin cover for purposes of children's sleeping.
- These items can cause suffocation if a child turns into the mattress or sheepskin cover.
- It is very difficult, for a child, to release themselves once they are caught under the water mattress, or sheep skin cover.

- **37.95.720(3)** High chairs, when used, must have a wide base and a safety strap. Portable high chairs that hook onto tables are not allowed.

Interpretation:

- Do high chairs have a wide base and a T-shaped safety strap? CCL should examine each high chair to confirm.
- Portable high chairs that hook onto tables are prohibited.
- Booster chair must have a T-shaped safety strap. CCL should examine each high chair to confirm.
- Are booster seats secured appropriate per manufacturer's instruction?

- **37.95.720(4)** Each child, except school-age children who do not take naps, shall have clean, age-appropriate rest equipment, such as a crib, cot, bed or mat. Seasonably appropriate top and bottom covering, such as sheets or blankets, must be provided. Crib mattresses and other rest equipment shall be waterproof and regularly sanitized.

Interpretation:

- If mats and/or cots are not waterproof, a waterproof barrier must be used between mat and/or cot and flooring.
- Rest equipment should be made of a material that is waterproof (i.e. plastic or vinyl mat and/or cots).
- Are these items readily available to the children?
- Are they cleaned and sanitized? How often? In what manner?

- **37.95.1016(1)** Age appropriate feeding equipment shall be provided for every four infants or toddlers. This includes safe high chairs, baby feeding tables, booster seats and child-size tables and chairs. Use of these types of equipment must be used in accordance with the manufacturer's instructions and must be appropriate for the age of the child using the equipment. Portable high chairs that hook onto tables are prohibited.

Interpretation:

- Feeding tables: a feeding table is a table with chairs that are set into the interior of the table, or a table w/ chairs along the outside.
- Is there a T-shaped safety strap for each chair (to secure the child inside the seat and prevent the child from falling out)? CCL should examine each high chair to confirm.
- Are there adequate numbers of chairs available?
- Do high chairs have a wide base and a T-shaped safety strap? CCL should examine each high chair to confirm.
- Portable high chairs that hook onto tables are prohibited.
- Is there an adequate number of high chairs/feeding tables?

- **37.95.1016(2)** The facility shall provide adequate and safe equipment such as cribs, swings, playpens, and adult rocking chairs. All equipment must meet current federal safety regulations.

Interpretation:

- Is there a sufficient amount of this type of equipment available?

- Is equipment in good condition?
- Do children have to wait long periods of time before they can use them?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through interview with provider and staff.

6. EXITING

- **37.95.121(13)** In an emergency, all occupants must be able to escape from the facility, whether a home or building, in a safe and timely manner.

Interpretation:

- What is the provider's emergency evacuation plan? Is it reasonable? Do they practice?
- Is Fire Safety Record and Evacuation Plan completed?
- How long does evacuation take?
- Is the escape route appropriate for all children--regardless of ability-to use?
- CCL may question children and staff to determine their level of understanding and ability to exit the facility.

- **37.95.121(13)(a)** All facilities must have two accessible exits on each level. The two exits must be far enough apart from one another to avoid having them both blocked by fire and smoke. Aisle ways and corridors leading to the exits must be kept clear of obstructions.

Interpretation:

- Are there 2 doors, which exit off the main floor?
- Are they unlocked?
- Can children demonstrate how to open the door? (This will verify easy operation/single action opening).
- What is the distance between the two main level doors?
- Are aisle ways/hallways clear of obstructions allowing easy access to doors?
- To determine whether the exits are far enough apart, licensors should measure the diameter of the room and divide by 2, this should equate to the distance between the exits. If not then the intent of the rule is not met. (Remote Means of Access).

- **37.95.121(13)(b)** If the day care provider chooses to lock the facility door to prevent unauthorized access to the facility or to prevent a child from escaping, the facility shall have no lock or fastening device which prevents free escape from the interior.

Interpretation:

- Are inside exits easily open-able with single action - demonstration will prove this. Can the door be opened in a single action w/o special tools or keys?
- How are deadlocks opened?
- Is it a single action turn lock without a key?
- Can children and adults get out of the area in a reasonable manner?
- Can CCL open a locked door?

- **37.95.121(13)(c)** The locking device must not require a key, a tool, or special knowledge or effort to open from the inside.

Interpretation:

- What type of lock is used? Does it require a lock or other 'tool' to open the lock? Does it require a combination movement?
 - Any lock used should be able to open freely from inside with a single action.
- **37.95.121(13)(d)** The locked door must be easily opened with one motion from the inside of the facility.

Interpretation:

- Can CCL open the locked door in one motion?
- **37.95.121(13)(e)** Installation of locking devices may not prohibit access by parents. A facility may not utilize locking devices in a manner to prevent unannounced access by authorized individuals, including parents. If a lock is used, the provider must make adequate provision to allow authorized persons unannounced access to the facility and must provide authorized personnel including parents with information on how to gain access.

Interpretation:

- How has the provider accomplished this? Is access reasonable?
 - May need to interview parents to determine whether this criteria is met. What is their understanding for purpose of locking the door?
 - Do parents understand and have knowledge of how to gain access to the facility at any time they desire?
 - At least one door must be unlocked or have a keypad enter or key available for all parents.
- **37.95.121(13)(f)** Exit doors, windows, and their opening hardware must be maintained in good repair at all times.

Interpretation:

- Could children and staff exit safely?
 - CCL can observe provider open window(s)?
- **37.95.705(2)** Every story of the day care facility that is used for day care purposes shall have at least two remotely located means of egress as defined in ARM 37.95.102 (42). All areas used for day care purposes must have at least one door for egress that is at least 34 inches wide and must also have one other means of egress that provides a clear opening of at least 20 inches in width, 24 inches in height, and 5.7 sq. feet in area. The bottom of the opening shall not be more than 44 inches above the floor. If windows are used for rescue or exiting purposes, the provider shall have a written and feasible evacuation plan. All exits must be unobstructed at all times.

Interpretation:

- Are there at least two means of egress from each level?
- If windows are used, are they at least 5.7 square feet of free opening?
- Determining
 - $(\text{Window Height}/12) \times (\text{Window Width}/12)$
- Is the bottom of the window no more than 44 inches from the ground?

- To determine remote means of egress: measure the diameter of the room where the exits are located. Divide that figure by 2. The exits must be at least that far apart to be considered remote and meet the requirements of this rule.
- All exits must be free of garbage and not obstructed in any manner.

- **37.95.705(3)** Remotely located means of egress from each room as required in (2) are not required in buildings protected throughout by an approved, automatic residential sprinkling system, or where the room or space has a door leading directly to the outside of the building.

Interpretation:

- If the building or day care area is protected by a residential sprinkling system, egress methods do not have to be remote.
 - The remote means of egress standard also does not apply if the area has a door that goes directly to the outside, with no other varying exit means.
- **37.95.705(4)** If basements are used for day care purposes:
 - (a) In facilities newly licensed on or after the effective date of these rules or for which there is a change in ownership on or after the effective date of these rules each designated area for children's activities must have two means of egress that are remote from each other unless:
 - (i) the basement areas are protected by an approved, automatic residential sprinkler system; or
 - (ii) if the basement area contains an approved sprinkling system, then the area is only required to have direct egress from the basement.
 - (b) the basement must be dry, well ventilated, warm and well lighted.

Interpretation:

- If a facility is registered after June 2, 2006, and the day care is housed in the basement, there must be two remote exits from that basement that meet the REMOTE EGRESS requirements unless:
 - The basement is sprinkled throughout.
 - If the basement has a sprinkling system, then only one direct means of egress is required.
 - Basements, if used by the children during any part of the day care day must be well ventilated, warm and well lighted.
 - Verify the standard by observation, discussion with the provider, parents and the children.
 - If children are napping in basement areas, then (5) applies unless the facility is sprinkled throughout.
- **37.95.705(5)** All rooms used for napping by children must have at least two means of escape, at least one of which shall be a door or a stairway providing a means of unobstructed travel to the outside of the building at street or ground level to the public way. The second means of escape may be a window which meets the egress requirements of (2).

Interpretation:

- CCL will measure window opening.
 - Egress window must meet the 5.7 square foot opening.
- **37.95.705(6)** Third stories in dwellings must not be used for day care purposes and must be barricaded or locked to prevent entry by children.

Interpretation:

- 3rd floor rooms cannot be used for day care purposes.
 - Children should not be able to access entry onto 3rd floor areas.
- **37.95.705(7)** Doorways and stairs must be clear of any obstruction.

Interpretation:

- Are there any obstructions in the doorway or on stairs (i.e. laundry, boxes, etc.)?

- **37.95.705(8)** Every closet door must be such that children can open the door from the inside. Every bathroom door must be designed to permit the opening of the locked door from the outside in an emergency and the opening device must be readily accessible to the provider.

Interpretation:

- Closet doors should have handles/knobs on the inside that are easy for children to open, with one single action.
- Opening device needs to be easily accessible.
- CCL may observe the provider using the opening device.

- **37.95.705(9)** Every bathroom door must be designed to permit the opening of the locked door from the outside in an emergency and the opening device must be readily accessible to the provider.

Interpretation:

- Opening device needs to be easily accessible.
- CCL may observe the provider using the opening device.
- Provider should demonstrate whether the door is easily unlocked from outside.

- **37.95.706(1)** In an emergency, all occupants of the day care facility must be able to escape from the home or building in a safe and timely manner.

Interpretation:

- Does the facility have an evacuation plan?
- What is that plan?
- Can children or staff verify the plan?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can request demonstration in order to show compliance/understanding of regulation.
- CCL can determine compliance through interview with provider and staff.

OUTDOOR TOUR

7. PLAY AREA

- **37.95.121(5)** The indoor and outdoor play areas must be clean, reasonably neat, and free from accumulation of dirt, rubbish, or other health hazards.

Interpretation:

- Does outside have any health hazards (i.e. dog feces, rakes, lawn mower, sharp objects, broken toys, cigarette butts, etc.)
- Is lawn mowed in outdoor play area? Weeds pulled?
- Are toys put away at the end of the day? Are toys cleaned on a regular basis?
- Does CCL observe any hazards during the outdoor tour? (i.e. holes, objects with sharp edges or vermin?)

- **37.95.121(6)** Any outdoor play area must be maintained free from hazards such as wells, machinery and animal waste. If any part of the play area is adjacent to a busy roadway, drainage or irrigation ditch, stream, large holes, or other hazardous areas, the play area must be enclosed with a fence in good repair that is at least 4 feet high without any holes or spaces greater than 4 inches in diameter or natural barriers to restrict children from these areas.

(a) Outdoor play areas shall be designed so that all parts are always visible and easily supervised by staff.

Interpretation:

- Through observation, the worker can determine if this requirement is met.
- Workers can determine hole/space diameter by utilizing tape measures.
- Is play area designed so that all areas are visible from any point in the yard? Side yards should be fenced off.

- **37.95.121(7)** Toys, play equipment, and any other equipment used by the children must be of substantial construction and free from rough edges, sharp corners, splinters, unguarded ladders on slides, and must be kept in good repair and well maintained.

Interpretation:

- Are toys with rough edges, sharp corners and so on, removed from play equipment?
- How often are toys checked by provider and/or staff? What is the process used by the provider to check the toys?

- **37.95.121(9)** Outdoor equipment, such as climbing apparatus, slides, and swings, must be anchored firmly, and placed in a safe location according to manufacturer's instructions. Recommended ground covers under these items include sand, fine gravel or woodchips with a depth of the ground cover being at least 6 inches.

Interpretation:

- Any outdoor equipment must be secured to the ground upon which it is located.
- If the equipment piece is properly security/anchored, it will not wobble or tip if an adult were to lean or sit upon it.
- CCL may check to see if play equipment is anchored.
- Are ground covers in place? If no, CCL should explain the necessity of ground covers to the provider. Ground covers "absorb a child's fall" which will prevent or minimize injury. CCL may go over the CFCO guideline regarding fall zones and impact materials.

- **37.95.121(10)** Trampolines are prohibited for use by children in care. Trampolines on facility premises must be inaccessible to children in care.

Interpretation:

- Trampolines, regardless of the size (including individual/personal trampolines), CAN NOT be used by day care children during day care hours.
- If the provider has a trampoline on the premise (for personal use only) it must be inaccessible to day care children.
- How is it inaccessible? Is it locked? Is fence locked or secured?
- This rule includes prohibition against small trampolines and Air Jumpers (inflatable air castles or slides), which are considered, throughout air jumper industry, inflatable trampolines.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through interview with provider and staff.

8. SWIMMING

- **37.95.127(1)** Children may not be allowed to use a swimming pool, unless it and the surrounding area are constructed and operated in accordance with ARM 37.95.227.

Interpretation:

- See 37.95.227

- **37.95.127(2)** Portable wading pools, as defined in ARM 37.95.102, are permitted in day care facilities.

Interpretation:

- Is the pool less than 24 inches deep?
- CCL may measure depth of pool.

- **37.95.127(2)(a)** When children are utilizing a portable wading pool, an approved caregiver shall always be present and actively supervising.

Interpretation:

- How does the provider assure supervision when children are using the wading pool?
- Is supervision direct (right by the pool) or passive (provider is elsewhere)?

- **37.95.127(2)(b)** If the portable wading pool is filled with water and will sit unused for any period of time prior to use by day care children, the caregiver shall equip the wading pool with a barrier to prevent a young child's unsupervised access.

(i) A barrier refers to a fence, a wall, or gate or screen that locks.

Interpretation:

- Is there a barrier around a portable wading pool that is filled and not being used?
- What type of barrier?
- Does it prevent the children unsupervised access?

- **37.95.127(2)(c)** Portable wading pools must be emptied after the day's use and sanitized.

Interpretation:

- Is this done on a daily basis?
- What method is used to sanitize the pool?

- **37.95.127(3)** Children shall not be permitted in hot tubs, spas, or saunas.

(a) Hot tubs must have bolted and securely locked covers.

(b) Spas and saunas must be inaccessible to children.

Interpretation:

- Does the provider have a hot tub or spa or sauna (Indoors or out) on the facility premises?
- If so, how is the tub locked? Licensor will need to test lock (pull on it) to determine, whether it is secured.
- Are there means of making the spa or sauna inaccessible? What are they? What makes them inaccessible?

- **37.95.127(5)** Ponds shall be fenced to prevent access to children.

Interpretation:

- Is the pond fenced? Make sure that fencing truly prevents access!
- Are there gaps or spaces w/in fencing children could get through? If so, provider must find a way to secure those areas.

- **37.95.127(6)** All in ground and above ground swimming pools located in the outdoor play space area or accessible to children must be fenced with a locked gate. The fence shall be at least 5 feet high and come within 3 1/2 inches of the ground. The fence shall be constructed to discourage climbing. Exit and entrance points shall have self-closing, positive latching gates with locking devices a minimum of 55 inches from the ground. The child care building wall shall not constitute one side of the fence unless there are no openings in the wall. When children are swimming, supervision must include at all times at least one person currently certified in red cross advanced life saving or an equivalent certificate by a recognized organization. This person shall not be counted in the staff-child ratio. One person with a life guard training certificate is required for each group of 25 or fewer children.

Interpretation:

- Is there an in ground pool?
 - Is it fenced and locked to prevent access?
 - If the pool is used, is there a staff member currently certified in Water Safety Instruction, who has an appropriate certification in Lifeguard Training, who is certified in advanced lifesaving?
- **37.95.127(6)(a)** Each swimming pool more than 6 feet in width, length or diameter shall be provided with a ring buoy and rope and either a throw line or a shepherd's hook. Such equipment shall be of sufficient length to reach the center of the pool from the edge of the pool and shall be safely and conveniently stored for immediate access.

Interpretation:

- Are these items easily accessible and available?
 - Can they reach the center of the pool?
 - Provider should demonstrate this for 2 reasons:
 - To show equipment does reach center.
 - To show they know how to use the equipment.
 - It does no good to have the equipment if person doesn't know how to use it
- **37.95.127(6)(b)** All pool pumping equipment shall be screened to prevent access and injury.

Interpretation:

- Can provider show licenser that pumping equipment is screened off?
 - Is it screened in such a way to truly prevent access?
 - Is there jagged edges, etc. which could cause injury?
- **37.95.127(7)** Swimming pool safety rules shall be posted near the swimming pool.

Interpretation:

- Are there rules posted?
 - Do the children know the rules?
 - Child Care Licenser should question the children to determine level of understanding.
- **37.95.127(8)** The staff-child ratio shall be maintained whenever children participate in swimming activities, including swimming instruction.

Interpretation:

- What is the ratio of staff to children?
- Is this ratio maintained at all times?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL may conduct observations on off-site areas such as a pool.
- CCL can determine compliance through interview with provider and staff.

PROGRAM ISSUES**9. SUPERVISION** **37.95.172**

(1) Caregivers must supervise children at all times.

(2) The provider and all caregivers shall be responsible for direct care, protection, supervision, and guidance of children through active involvement or direct observation.

Interpretation:

- Supervision is basic to safety and the prevention of injury and maintaining quality child care.
- The CCL should observe, interview and interact to find out the following:
 - How does the facility maintain supervision?
 - Are staff involved and actively observing?
 - Do caregivers behave in ways which promote direct care? (i.e., Are caregivers in the same room/floor as the children?)
 - How is this demonstrated?
 - Do caregivers, behave in ways to promote maximum protection on all levels for the children? Cell phone usage and visiting with other caregivers should not occur while children are in care.
 - Children should be regularly counted throughout the day. It is important that caregivers know how many children are in care at all times.

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- 37.95.702(4)**
- There shall be sufficient staff so that an adult is always present and supervising all children.

Interpretation:

- Is an adult present at all times?
- Do caregivers behave in ways which promote direct care? (i.e., Are caregivers in the same room/floor as the children? Are caregivers involved in activities with the children)
- Supervision of children means that the provider can clearly see the children and can reach them quickly if necessary.

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- 37.95.715(3)**
- The provider or other caregiver who is at least 18 years of age shall be on the premises at all times children are in care.

Interpretation:

- Any person providing care to the children must be at least 18 years old and considered approved.
- These persons must be on premise and supervising children at all times.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through caregiver/child interactions.
- CCL can determine compliance through interview with provider and staff.

10. PROVIDER RESPONSIBILITIES

- **37.95.115(3)** The licensee or registrant shall allow custodial and non-custodial parental access as well as access by legal guardians to the facility at any time during which child day care services are provided, unless there is a current court order preventing parent-child contact.

Interpretation:

- Does the provider understand this requirement?
- Have they had to deal with this situation?
- Do they communicate this with parents?
- If a parent is prohibited by a court order from having contact, is a copy of the order on file at the facility?
- "Access" means the parent may have contact w/child. It does not necessarily mean the parent can remove the child from the facility. CCL's should inquire as to whether there is a contract, a parenting plan or other court documents specifying who has the right to remove child from the facility.

- **37.95.156(1)** The provider and all staff and volunteers shall maintain personal information about the child and the child's family as confidential.

Interpretation:

- Providers should be reminded that any and all information about the child and his/her family is considered confidential and is not to be disclosed to any other parent of the day care facility or any other persons. It is also important that confidential information is not shared via social media.
- CCL should scan the facility to see if there is information posted about a child—such as a special food menu, etc.-- or listed anywhere in the facility that could be seen as confidential. If so, the CCL should work with the provider to help them understand why that could be seen as a violation of the rule and give the providers ideas on how to implement a different way to maintain the information w/o breaching any level of confidentiality.

- **37.95.171(1)** The director, assistant director or any staff member of the day care facility who has reason to suspect that any child is or has been abused or neglected is required to personally report the matter promptly to the department child abuse hotline at 1 (866) 820-5437. The day care provider or staff member shall make the report within 24 hours of receiving information concerning suspected child abuse or neglect.

Interpretation:

- The provider will be given appropriate information about his/her responsibility for reporting child abuse and neglect.
- As mandatory reporters, day care providers MUST report any suspicion of abuse/neglect.
- Providers should be given information about training opportunities regarding child abuse and neglect, specifically, what constitutes CA/N.
- Child Care Licensor should be available to help providers locate such training or assist providers in understanding the reporting requirements.

- **37.95.174(1)** No staff member, aide, volunteer, or other person having direct contact with the children in the facility shall pose any potential threat to the health, safety, and well being of the children in care.

Interpretation:

- Does the provider have the staff approval letter from the department on file at the facility?
- Who is allowed to come into the daycare?
- Are there concerns with anyone who comes into the facility?
- How are staff and caregivers supervised to ensure that practices are not being utilized that could post a threat to the children in care?
- Are staff properly trained on the requirements and facility policies?

- **37.95.183(3)** Each day care provider is responsible for notifying the department of any environmental danger or other hazard on the facility property that the provider is aware of that could affect the health, welfare, or safety of children in care.

Interpretation:

- Does the provider know the appropriate numbers to call to inform of such hazards?
- CCL may discuss the various issues that could make this reporting necessary, i.e., remediation of the facility grounds, discovery of mold with/in the facility, insect infestations, or even the residence of a new family member who may have a criminal background, etc.

- **37.95.183(5)** The provider shall submit a report to the appropriate local office of the department within 24 hours after the occurrence of an accident causing injury to a child which resulted in the child being hospitalized, requiring ambulance transport or intervention, or physician treatment, or any fire in the facility when the services of the fire department were required. A copy of the report shall be provided to the parents of the children involved, and a copy retained on file at the day care facility.

Interpretation:

- If a child is injured while in care and requires medical attention, the provider or staff must call the local licensing office to report that the child was injured and required medical attention.
- If a fire occurs--no matter the degree--the provider is to inform the local licensing worker of the occurrence.
- Have these types of incidents occurred?
- Has the provider responded and documented appropriately?
- What was course of action? Was it appropriate?
- Are staff aware of this requirement so that they can call in the event the provider is not at the facility?

- **37.95.715(4)** Providers shall use appropriate forms of discipline.
- (a) Physical punishment, including spanking or shaking and other forms of corporal punishment are strictly prohibited in day care facilities. Discipline shall include positive guidance, redirection and the setting of clear limits that foster the child's ability to become self-disciplined.
- (b) Any punishment or discipline which is humiliating, frightening, or otherwise damaging, is prohibited.
- (c) Parental or guardian permission does not allow the use of punishments or disciplines prohibited in (4)(a) and (b) above.

Interpretation:

- Discipline shall include positive guidance, re-direction, and setting clear-cut limits that foster the child's ability to become self-disciplined. Staff should use discipline methods that are age-appropriate, clear and understandable to the child.
- Providers shall not spank, hit or use any form of intimidating actions in order to discipline children.

- Providers shall not use words that are threatening or shaming to children. This includes yelling at children.
- Even when parents give permission, humiliating, shaming, frightening or any damaging punishment is not allowed.
- What discipline methods are taught and how does provider ensure that caregivers utilize appropriate forms of guidance/discipline?
- CCL will observe interactions between children and caregivers during licensing visit.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through caregiver/child interactions.
- CCL can determine compliance through interview with provider and staff.

11. ACTIVITIES

- 37.95.715(2)** There must be developmentally appropriate activities for the children which foster sound social, intellectual, emotional and physical growth including:

Interpretation:

- Does provider have an activity schedule? Is the schedule being followed?
- Are there activities that help the children develop in these areas?
- Are they able to jump, run?
- Do they get to interact on an individual level with other children?
- Are there structured group activities?
- CCL will determine compliance through observation, interview and interaction.

- 37.95.715(2)(a)** Opportunities for individual and small group activities;

Interpretation:

- Can an example be given by the provider?

- 37.95.715(2)(b)** Time and opportunity for creative experiences for children through art, music, books, stories, and dramatic play; and

Interpretation:

- Are there opportunities for creative play such as using crayons, glue, markers, paints, sand and water tables?
- Are there sufficient books--and do staff, read to the children?
- Are the children encouraged to look at the books by themselves?
- Does provider have a dramatic play area set up?

- 37.95.715(2)(c)** Outdoor play each day except when precluded by severity of weather.

Interpretation:

- What is the schedule for outdoor play?
- Are infants included?
- What occurs when there is inclement weather?
- Both the written plan and worker observation can determine compliance.

- Outdoor Weather Guide can be found at:
<https://www.idph.state.ia.us/hcci/common/pdf/weatherwatch.pdf>

- **37.95.715(5)** Television or movie watching during the hours children are in care shall not be excessive and shall be limited to child-appropriate programs.

Interpretation:

- Does provider have screen time on schedule? Does screen time exceed the amount of time on schedule?
- In comparison to other daily activities, how much time is spent watching TV?
- Through observation, the worker can verify if this requirement is met.
- TV needs to be turned off when not used by children.

- **37.95.720(1)** Play equipment and materials must be provided that are appropriate to the developmental needs, individual interests, and ages of the children. There must be a sufficient amount of play equipment and materials so that there is not excessive competition and long waits.

Interpretation:

- Play equipment must be appropriate for the child's developmental level; not necessarily the child's age level.
- Toys must be safe and sufficient in quantity for the number of children.
- Excessive waiting for the use of equipment can lead to behavioral difficulties as well as possibilities of physical injury if children begin fighting over toys.
- CCL would measure compliance by structured observation.

- **37.95.720(2)** Play equipment and materials must include items from each of the following six categories: dramatic role playing, cognitive development, visual development, auditory development, tactile development and large-muscle development.

Interpretation:

- Compliance would be measured by observation.
- Examples of these categories would include: dress up area, block areas, crayon, paints water brushes, story books, flannel boards, puzzles, musical toys, music tapes, wind chimes, teething toys, cuddly toys, textured cards, balls, exercise mats, pounding bench, etc.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through caregiver/child interactions.
- CCL can determine compliance through interview with provider and staff.

12. NIGHT CARE

- **37.95.718(1)** Day care homes offering night care must develop plans for program, staff, equipment and space which will provide appropriately for the personal safety, emotional and physical care of children away from their families at night.

Interpretation:

- Is provider approved for night care hours?
- Is there a plan in place, which addresses the evening time program?

- Does it include time for quiet activities? Does it address sleeping arrangements, personal safety (such as what happens when a child wakes in the middle of the night)?
- What occurs when a child is upset at being away from his/her parents and his/her familiar surroundings at night?

☐ **37.95.718(2)** This requirement shall be deemed to have been met if:

(a) Special attention is given by the caregiver and the parents to provide for a transition into this type of care appropriate to the child's emotional needs;

Interpretation:

- Is there a transition plan for bringing the child into the nighttime program?
- Is the child allowed to bring his/her own personal items of comfort--teddy bear, blankets, etc.?

☐ **37.95.718(2)(b)** A selection of toys for quiet activities which can be used with minimal adult supervision is provided for children prior to bedtime;

Interpretation:

- Are there "quiet" toys--books, music, dolls, etc.-- the child can play with before going to sleep?
- Does the use of the toys require supervision?

☐ **37.95.718(2)(c)** Bathing facilities, comfortable beds or cots, and complete bedding are provided;

Interpretation:

- Are there adequate bathing facilities?
- Is there a sink with washcloths and towels provided?
- Are the facilities safe--for bathtubs, are slip prevention materials placed in the tub?
- What type of sleeping apparatus is available for the children to sleep on--beds, mats, cots?
- One for each child?
- Are there adequate bedding -- sheets, coverings?
- Are these items supplied by the facility?

☐ **37.95.718(2)(d)** Staff are available to assist children during eating and pre-bedtime hours and when dressing;

Interpretation:

- Are there adequate numbers of caregivers?
- Are caregivers available to children when children have a bedtime snack?
- Do caregivers read to the children?
- Are caregivers available to help the child dress in the morning?

☐ **37.95.718(2)(e)** During sleeping hours, staff have a plan of supervision which involves practices where no child is left alone and staff are in the immediate vicinity and on the same floor level of sleeping children in order to adequately hear the children should they wake and to provide for the needs of children and respond to any emergency;

Interpretation:

- How do caregivers supervise the children while they sleep?
- Caregivers are required to remain awake while children in care.
- Where are caregivers when the children are asleep? Can they see or hear each child at all times?
- Worker observation and discussion with the provider will determine whether this is met.

- **37.95.718(2)(f)** At appropriate times a nutritious dinner and/or breakfast is served to children and a bedtime snack is offered.

Interpretation:

- Is a meal and snack offered to the children before bed? Does this meal and snack meet nutritional guidelines?

- **37.95.718(3)** An individual day care provider may not provide care consecutively day and night without at least one additional caregiver. No caregiver may have responsibility for the care and supervision of children for more than 12 consecutive hours in a 24 hour period.

Interpretation:

- If a 24-hour facility, how does the provider accommodate the rule?
- What is the plan of supervision?
- Is the plan reasonable?
- Does it allow for adequate "off" time for provider and caregivers?
- CCL may review staff schedule.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through interview with provider and staff.

HEALTH ISSUES

13. ILLNESS EXCLUSION

- **37.95.139(2)** If, while in care, a child becomes ill or is suspected of having a communicable disease reportable to the health department while in care, the parent shall be notified by the provider. The parent is responsible for arranging to have the child taken home.

Interpretation:

- Exclusionary criteria from day care include the following:
 - Fevers of 101 degrees;
 - Vomiting or diarrhea until these symptoms subside for 24 hours;
 - Child has strep throat, impetigo, bacterial conjunctivitis, other skin infections (draining burns, infected hang nails);
 - Generalized rashes (over multiple parts of the body)- incl. chicken pox; and
 - Head lice or scabies.

- **37.95.139(3)** The director, owner, manager, or person in charge of the day care facility must designate a staff member to check daily the health status of each child immediately upon that child's entry into the day care facility, and to exclude any child showing symptoms of illness, under the following guidelines:

Interpretation:

- Who conducts the well child checks?
- Do they know exclusionary criteria?
- What is their process to determine a child's health status?
- What if the child is too ill to attend? What is their process?

- **37.95.139(3)(a)** Children must be without fever of 101 degrees F or greater for 24 hours before they return to the day care facility, except that children with immunization-related fevers need not be excluded if they are able to participate in the routine of the day care facility.

Interpretation:

- CCL can discuss these situations with provider to determine compliance.
- Are sick child exclusions written in parent policies?

- **37.95.139(3)(b)** Children must be without vomiting and diarrhea for 24 hours before they return to the day care facility. Vomiting includes 2 or more episodes in the previous 24 hours. Diarrhea is defined as an increased number of stools, increased water in the stool, and/or decreased form to the stool that cannot be contained by a diaper or clothing;

Interpretation:

- CCL can discuss any illnesses and exclusion policy with provider.

- **37.95.139(3)(c)** Children with any of the bacterial infections listed below must be treated with antibiotics for 24 hours before they return to the day care center:

(i) Strep throat;

(ii) Scarlet fever;

(iii) Impetigo;

(iv) Bacterial conjunctivitis (pinkeye); and

(v) Skin infections such as draining burn or infected wounds or hangnails;

Interpretation:

- CCL can discuss any illnesses and exclusion policy with provider.
- Interview caregivers to determine knowledge of infections/symptoms.

- **37.95.139(3)(d)** Generalized rashes, including those covering multiple parts of the body, must be evaluated by a health care provider to determine their cause before the child can return to the day care facility;

Interpretation:

- Has a physician, health care provider, examined this child's rash?
- Has it been determined that child can return to facility?

- **37.95.139(3)(e)** Children with chickenpox may not be admitted to the day care facility until their sores dry up, which usually takes 5 to 7 days. Day care providers must not purposefully expose susceptible children to chickenpox, even with the permission of the susceptible child's parents;

Interpretation:

- Does the provider understand that child CANNOT deliberately be exposed to other children with chickenpox?
- Have they ever been requested to do so?
- Does the provider understand that sores must be dried up before a child can be re-admitted?

- **37.95.139(3)(f)** Children who are jaundiced must be excluded until a health care provider evaluates the cause and authorizes the child to return to the day care facility;

Interpretation:

- Jaundice is a symptom and should be evaluated only by a physician.
- Children who have these symptoms must be excluded until the health care provider evaluates the cause.

- **37.95.139(3)(g)** Children with symptoms of severe illness, such as uncontrolled coughing, breathing difficulty or wheezing, stiff neck, irritability, poor food or fluid intake, or a seizure, must be evaluated by a health care provider before they may return to the day care facility;

Interpretation:

- Are there children enrolled who have these identified health problems?
- Is there documentation that they've seen a physician regarding the problem?
- What are the treatments?
- Emergency contact form complete or instructions, medication(s), Dosages?
- If child suffers a seizure - is 911 Called?

- **37.95.139(3)(h)** A child need not be excluded for a discharge from the nose which is not accompanied by a fever.

Interpretation:

- Has the provider taken the child's temperature?
- If child has a discharge from the nose but does not have a fever, the child may be present at the facility.

- **37.95.139(4)** If a child develops symptoms of illness while at the day care facility and after the parent or guardian has left, the day care facility must do the following:

- (a) Isolate the child immediately from other children in a room or area segregated for that purpose;
- (b) Contact and inform the parent or guardian as soon as possible about the illness and request the parent or guardian to pick up the child;
- (c) Report each case of suspected communicable disease the same day by telephone to the local health authority, or as soon as possible thereafter if no contact can be made the same day.

Interpretation:

- What is the facility's procedure for attending to a sick child after the parent has left?
- Does it meet this criteria?
- How is this determined?
- Does provider know which illnesses are considered communicable diseases and does provider know where to report?
- CCL can direct provider to website for communicable disease chart.
- Does the facility follow these steps?

- **37.95.139(5)** When a child is absent, the day care provider shall obtain the reasons so the interest of the other children may be properly protected. If a reportable communicable disease is suspected, the provider shall inform a health officer. No child shall be re-admitted after an absence until the reason for the absence is known and there is assurance that the child's return will not harm that child or the other children. Disease charts that identify the reportable diseases are available from the department.

Interpretation:

- If child is absent and parent does not contact the facility, does provider or caregiver contact parent to find out why child is absent?
- If the child has one of these conditions, has the provider contacted the local health authorities?
- Does provider know which illnesses are considered communicable diseases and does provider know where to report?

- For children who have been excluded due to a reportable communicable disease, is there documentation in the child's file from a physician indicating the child is no longer communicable?
- 37.95.139(6)** The day care facility may readmit a child excluded for illness whenever, in its discretion:
- (a) The child either shows no symptoms of illness;
 - (b) The child has been free of fever, vomiting, or diarrhea for 24 hours; or
 - (c) The child has been on antibiotics for at least 24 hours for bacterial infections.

Interpretation:

- Does the provider follow these re-admittance policies?
 - Is this documentation in a child's file?
- 37.95.139(7)** The parent or guardian may also provide the day care facility with a signed certification of health from a licensed physician, except that the following restrictions must be followed:
- (a) If a child is excluded for shigellosis or salmonella, the child may not be readmitted until the child has no diarrhea or fever, the child's parent or guardian produces documentation that 2 stools, taken at least 24 hours apart, are negative for shigellosis or salmonella, and the local health authority has given written approval for the child to be readmitted to the day care facility;
 - (b) If a child is excluded for hepatitis A virus infection, the child shall remain excluded until either 1 week after onset of illness or jaundice, if the symptoms are mild, or until immune globulin has been administered to appropriate children and staff in the day care facility as directed by the local health authority.

Interpretation:

- Does the provider follow these guidelines?
 - How is it verified?
- 37.95.184(2)** Every employee, volunteer, or resident at a day care facility must:
- (a) be excluded from day care facility if the person has a communicable disease, a sore throat or cold that is accompanied by a fever of 101 degrees F or greater, or if the person exhibits any of the symptoms outlined in ARM 37.95.139(4) for which a child would be excluded.

Interpretation:

- Does the facility exclude sick staff according to rules above?

Compliance Determination:

- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

14. HEALTH PREVENTION

- 37.95.126(1)** Children shall be afforded a smoke-free environment during all day care hours, whether indoors or outdoors.

Interpretation:

- Smoking cannot occur when children are in care.
- Does the provider smoke in the facility after children leave?
- If so, how does the provider ensure that second hand smoke does not affect the children?
- Are air cleaners used?
- What types of ventilation is used?

- If CCL finds strong smoke odors in facility, CCL may require additional methods such as carpet/furniture cleaning and air purifiers to ensure that children are afforded smoke-free environment.
- Do the provider/caregivers smoke outside the facility? If so, where?
- Must be outside of the area considered for use by day care children.
- Supervision and proper ratios must be maintained at all times.

- **37.95.126(2)** The registrant (...) shall ensure that no smoking occurs within the facility while children are in care.

Interpretation:

- How does the provider ensure this?
- Is there a no-smoking policy?
- Can the worker verify this?
- For those who do smoke, is it allowed at any time during the day care hours?
- If so, what condition must be met (smoking outside) to ensure a smoke free environment?

- **37.95.183(2)** A first aid kit must be kept on site at all times and must at a minimum contain:
 - (a) Unexpired syrup of ipecac (one ounce bottle) which may be administered only upon directive from the Emergency Montana Poison Control Center or upon directive of the local emergency service program (i.e., 911 operator, local hospital, or physician);
 - (b) Sterile, absorbent bandages;
 - (c) A cold pack;
 - (d) Tape and a variety of band-aids;
 - (e) Tweezers and scissors;
 - (f) The toll free number for the Emergency Montana Poison Control Center, 1(800) 222-1222;
 - (g) Disposable single use gloves.
 - (h) The director, owner, manager, or person in charge of the day care facility shall take precautions to minimize the risk of any child suffering sunburn and to minimize the risk of any child contracting west Nile virus; and

Interpretation:

- Are these items contained in the first aid kit?
- What is the facility policy for use of sunscreen and bug repellent? Is the OTC completed?
- If parent doesn't want these products used, what agreement has been made to minimize risk of exposure to mosquitoes?

- **37.95.183(4)** A portable first aid kit containing at least the items listed in (2) above must accompany staff and children on trips away from the facility.

Interpretation:

- Does a provider have a portable first aid kit?
- Is it taken on field trips?

- **37.95.184(1)** Good health habits, such as washing hands, must be taught during everyday activities. The care-givers must ensure that each child washes his hands:
 - (a) Before eating;
 - (b) Before participating in food preparation activities; and
 - (c) After using the toilet.

Interpretation:

- How does the provider and caregivers teach hand washing?
- Could a child demonstrate how they wash their hands?

- **37.95.184(2)** Every employee, volunteer, or resident at a day care facility must:
 - (b) Wash their hands and exposed portions of their arms with a cleaning compound in a sink by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clear water, paying particular attention to the areas underneath the fingernails and between the fingers, at the following times.
 - (i) After touching bare human body parts other than clean hands and clean exposed portions of arms;
 - (ii) After using the toilet;
 - (iii) After every diapering;
 - (iv) After coughing, sneezing, or using a handkerchief or disposable tissue;
 - (v) Immediately before engaging in food preparation and before feeding any child;
 - (vi) During food preparation as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks; and
 - (vii) After engaging in other activities that contaminate the hands.

Interpretation:

- Do staff wash their hands at these times?
- CCL observation will help support this requirement.
- Do the staff receive training on proper hand washing techniques?
- Are there posters available by wash basins giving the proper instructions?
- How about the children?
- What is the procedure for hand washing?

- **37.95.184(3)** If an older, toilet trained child has an accident causing wet or soiled clothes, the child shall be changed promptly.

Interpretation:

- What does the provider do when a child's clothing becomes wet or soiled?
- Does the provider have extra clothing for all the children in care?
- What is the process if children do not have extra clothing?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through interview with provider and staff.

MEDICATION

15. ADMINISTRATION

- **37.95.181(1)** No day care employee, owner, or operator may administer any medication to a child without the written authorization of the parents including the child's name, date or dates for which the authorization is applicable, dosage instructions, and the signature of the child's parent or guardian.

Interpretation:

- Does the provider administer medication? Is this information included in the policy information given to parents?
 - If yes, has the provider required parents to complete the Medication Authorization Form before medication is given to a child?
 - Does the provider understand the department's definition of medication? Do they understand that common ointments, OTC's, etc. are now considered medication?
 - Are caregivers aware that they cannot administer medication without approval?
- **37.95.181(2)** If an emergency arises and the parents or guardian of the child is unavailable, an employee, owner, or operator may administer medicine to a child if:
- (a) a medical practitioner provides a written authorization containing the child's name, date or dates for which the authorization is applicable, dosage instructions, and the medical provider's signature; or
- (b) a medical practitioner, emergency service provider, or 911 responder verbally directs the employee, owner, or operator of the day care facility to immediately administer a medicine to the child, in which case the child must then be transported to a health care facility or a medical practitioner for follow up care within a reasonable time by the child's parent or guardian or by an employee, owner, or operator of a day care facility.

Interpretation:

- Does the facility policy address what would happen should an emergency occur? Has the parent acknowledged this action by signing the policy?
 - What steps would the provider take to locate the parent? Are these attempts documented?
 - If medication is administered in this manner, child must be taken to a health care facility.
 - Incidents such as this must be properly documented and parents must be provided a copy of this documentation.
- **37.95.181(3)** An employee, owner, or operator of a day care facility may not give medication to a child in a manner that is inconsistent with the container instructions on dosage or frequency unless directed to do so by a medical provider as provided in 52-2-736, MCA.

Interpretation:

- When administering medication, does the provider follow the labeling instructions?
- How does the person administering the medication measure the medication?
- Measuring devices should be provided by the parent with that child's respective medication. The measuring device should also be labeled with the child's name and only used for that child.
- There should not be a 'universal' measuring device used for all children.
- Does the provider use the medication for the purpose for which it was intended? For example, one would not use a cough medicine in order to elicit sleep.
- Providers must be informed that if a parent requests the use of a medication for other than the labeled purpose, a statement about using the medicine in that manner must be obtained from the child's doctor before the provider may give it.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

16. STORAGE

- **37.95.182(1)** Any prescription medication brought to into the facility by the parent, legal guardian, or responsible relative of a child shall be dated and shall be kept in the original container labeled by a pharmacist with the following information:
 - (a) child's first and last name;
 - (b) the date the prescription was filled;
 - (c) the name of the health care provider who wrote the prescription; and
 - (d) the medication's expiration date, and specific legible instructions for administration, storage, and disposal (i.e., the manufacturer's instruction or prescription label).

Interpretation:

- Are prescription medications contained in original containers that are properly labeled?
- Is the medication designated for a single child? Medications are not to be shared.

- **37.95.182(2)** Any nonprescription medication brought into the facility for use by a specific child shall be labeled with the following information:
 - (a) the date;
 - (b) child's first and last name;
 - (c) specific legible instructions for administration and storage (i.e., the manufacturer's instructions); and
 - (d) the name of the health care provider, parent, or guardian who made the recommendation.

Interpretation:

- Are OTC medications contained in original containers that are properly labeled?
- Is the medication designated for a single child? Medications are not to be shared.
- Most nonprescription medications should only be brought to the facility for one day and then returned to the parent. Medication should not be stockpiled "just in case" it is needed.

- **37.95.182(3)** All medications, refrigerated or unrefrigerated, shall:
 - (a) have child-protective caps;
 - (b) be kept in an orderly fashion;
 - (c) be stored away from food at the proper temperatures; and
 - (d) kept in a location inaccessible to children or kept in a locked box.

Interpretation:

- In what manner is medication stored?
- Does each medication have a child-resistant cap?
- Is the medication stored in a way that will prevent the inadvertent administration to the wrong child?
- In what way is the medication stored separate from food? Is it in a lock box, or if refrigerated, is it kept in a manner that will prevent it from being wrongly identified as a food product?
- Can children access the medication? If not kept in a locked box, medication should be kept completely out of reach of children. CCL may want to ask a child to reach the area where med's are kept to ascertain whether 'accessibility' is an issue.

- **37.95.182(4)** Medication shall not be used beyond the date of expiration.

Interpretation:

- Carefully examine the container for expiration date. This applies to prescription and OTC medications.

- What is the provider's procedure for discarding expired medication?
- Providers should regularly review medications to determine whether medication is still required.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

INFANTS/TODDLERS

17. DIAPERING

- **37.95.1001(1)** A sufficient supply of clean, dry diapers shall be available and diapers shall be changed as frequently as needed. Disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family may be used. If non-disposable diapers are used, the facility may launder the diapers using a germicidal process approved by the state or local health department. In the absence of such a process, the facility may not launder non-disposable diapers of enrolled children.

Interpretation:

- Are there enough diapers available for each infant?
- How often are the diapers changed?
- What type of diapers are used?
- If non-disposable, does the child's family supply them?
- Does the facility launder them--if so, can the provider demonstrate laundering procedures for non-disposable diapers?
- If there is not a process for laundering non-disposables, they cannot be laundered at the facility.
- Does facility maintain a diapering log?

- **37.95.1001(2)** Soiled reusable diapers shall be placed into separate cleanable covered containers provided with waterproof liners prior to transport to laundry, parent, or acceptable disposal. These containers shall be emptied, cleaned and disinfected daily. Soiled disposable diapers shall be disposed of immediately into an outside trash disposal or put in a securely tied plastic bag and discarded indoors until outside disposal is possible. Reusable diapers shall be removed from the facility daily.

Interpretation:

- Where are soiled reusable diapers contained?
- Are they stored in a container which has a waterproof liner (such as a plastic trash can bag--and are the bags sturdy enough to withstand the amount of diapers put into it)?
- Can this container be easily cleaned (easily cleaned by use of an appropriate disinfecting agent, or does it have to be briskly scrubbed)?
- Are the containers cleaned daily?
- How are the diapers disposed? What is the disposal process? Are they immediately put into an outside trash disposal?
- If so, does this refuse go into the disposal, or does it sit upon it?
- Does the provider keep the soiled diapers inside?

- If so, does the provider keep them in a secure plastic bag--keeping the bag in an area inaccessible to the children?
- When does the provider take this refuse outside?

- **37.95.1001(3)** Diaper-changing surfaces shall be cleaned after each use by washing or by changing a pad or disposable sheeting and sanitized or covered for reuse.

Interpretation:

- What type of surface is the changing table made of?
- Does the provider clean the table after each changing?
- Can the provider demonstrate how the cleaning is done?
- If sheeting is used, is it disposed of in a sanitary manner (a process similar to that of the reusable diapers)?

- **37.95.1001(4)** Soft, absorbent, disposable towels or clean reusable towels which have been laundered between each use shall be used for cleaning the child.

Interpretation:

- Does the provider use disposal towelettes (baby wipes) for cleaning the babies during a diaper change?
- How are these wipes disposed of?
- If the provider uses reusable towels, are they disposed of in a manner which will maintain a sanitary area, and are they laundered daily?
- CCL observation and discussion with the provider while on-site will determine compliance with this rule.

- **37.95.1001(5)** Safety pins shall be kept out of reach of infants and toddlers.

Interpretation:

- Where are safety pins kept--during a diaper change, are the pins out of the child's reach?

- **37.95.1001(6)** Infants and toddlers shall not be left unattended on a surface from which they might fall.

Interpretation:

- Does the provider ever step away from the table leaving the infant unattended?
- If the provider steps away from changing table, how do they ensure that child won't fall off (safety straps, etc.)?
- Are changing supplies easily accessible?
- Can staff access changing supplies while leaving a hand firmly on the child?
- Worker observation and discussion with the provider will determine the level of compliance with this rule.

- **37.95.1001(7)** All toilet articles shall be specifically labeled for each infant and toddler. Each item must be separated and kept in a sanitary condition.

Interpretation:

- Toilet articles--such as diapers, wipes, plastic pant liners, etc.--does each child have their own sets clearly identified?
- Are they kept separate from other children's items? How are they kept separate?
- Are these articles kept in sanitary manner--i.e. wipes containers are clean, no feces residue, diapers disposed of properly, etc.?

- **37.95.1001(8)** Diapering and toileting areas shall contain a wash basin that is separate from that used for food preparation.

Interpretation:

- Is the diapering area separate from the food preparation area--i.e. changing table is not in the kitchen area?
- Does the provider use a wash basin separate from the food area--i.e. bathroom sink?
- Is that bathroom on the same floor as the changing area?
- Bathroom sinks cannot be used for preparing bottles.

- **37.95.1001(9)** Toilet training shall be initiated when the toddler is ready and in consultation with the toddler's parents or placement agency. There shall be no routine attempt to toilet train children under the age of 18 months.

Interpretation:

- Have the child's parents indicated a desire to have the child toilet trained?
- Is there documentation regarding the parent's desire to have the provider initiate toilet training?
- Observance of the documentation and discussion with provider and parents will determine whether there is compliance with this aspect of the rule.
- What is the methodology used to train the child? Is it developmentally appropriate?

- **37.95.1002(1)** Wet or soiled clothing shall be changed promptly. Spare clothing shall be available in the event that a child's clothing becomes wet or soiled and it is the responsibility of the parent or guardian to care for the wet or soiled clothing. The clothing shall be placed in a sealed bag and returned to the parent or guardian.

Interpretation:

- What does the provider do when a child's clothes become wet or soiled?
- Do parents supply extra clothing for the child?
- What does the provider do if parents don't supply or forget to bring a change of clothes?
- Does the provider store the clothing in waterproof containers and send them home with the parents?
- What does the provider use as a "waterproof" container?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through interview with provider and staff.

18. FEEDING

- **37.95.1003(2)** A day's supply of formula or breast milk in nursing bottles or formula requiring no more preparation than dilution with water shall be provided by the parents, unless an alternative agreement is reached between the parents and provider ensuring that the infant's nutritional needs are sufficiently met. Bottles of formula or breast milk shall be clearly labeled with each infant's name and date and immediately refrigerated. After use bottles shall be thoroughly rinsed before returning to the parent at the end of the day. Special dietary foods required by infants and toddlers shall be prepared by the parents.

Interpretation:

- What type of formula is used--the only appropriate source is the type that requires that only water be added?
- Is it provided by the parents or has an agreement been made that the provider will supply?
- Are each child's bottle--whether it be formula or breast milk--clearly labeled with each child's name and the current date?
- Is the formula or breast milk immediately refrigerated?
- Worker observation will determine if this requirement is met.
- Are the bottles rinsed and returned to the parents?
- If special diets are required, does the parent bring that child's food?

- **37.95.1003(3)** Bottles shall not be propped. Infants too young to sit in high chairs shall be held in a semi-sitting position for all bottle feedings.
- (a) Infants and toddlers who use a bottle shall not be allowed to lie on their backs when drinking from the bottle.
- (b) Older infants and toddlers shall be provided age appropriate feeding equipment when being fed. This includes safe high chairs, baby feeding tables, booster seats, and child-size tables and chairs. Use of these types of equipment must be used in accordance with the manufacturer's instructions and must be appropriate for the age of the child using the equipment.
- (c) Infants six months of age or over who show a preference for holding their own bottles may do so provided an adult remains in the room and within observation of the infant.
- (d) Bottles and spill-proof cups (sippy cups) must be taken from the infant or toddler when they finish feeding, when the bottle or cup is empty, and while they are sleeping.

Interpretation:

- When babies are being fed a bottle, there must be a caregiver available to hold the bottle for the child; unless that child is 6 months of age or older and shows a preference for holding his/her own bottle.
- Infants who cannot hold their own bottle, will not be laid flat to be fed, they will be held by a caregiver, in a semi-sitting position.
- Are bottles taken from the infants when they are finished feeding, when they are sleeping?
- Worker observation and discussion with the provider will determine compliance.
- How are older infants fed?
- If they are given the bottle to hold for themselves, is a caregiver nearby with direct supervision of that infant?
- Are the infants fed in high chair or appropriate feeding tables accompanied w/ harnesses?
- CCL observation and provider demonstration will determine the compliance of this part of the rule.

- **37.95.1003(4)** If the parent is unable to bring sufficient or usable formula or breast milk, the facility may use commercially prepared and packaged formulas. Older infants and toddlers shall be provided suitable foods which encourage freedom in self-feeding. Unused food shall be stored in the original container and kept separate from other foodstuffs. Dry cereal, cookies, crackers, breads, and similar foods shall be stored in clean, covered containers.

Interpretation:

- Does the provider use commercially prepared or packaged formula?
- Are older infants encouraged to self-feed? In what ways?
- Are the foods used in self-feeding appropriate--can the infant adequately bring the food to their mouth and ingest the food without choking?

- Unused infant food is stored in its original container--food that has been taken out of the container shall not be returned to the container, it shall be disposed of. Is this food stored separately from other food.
- Is it refrigerated?
- Dry food is kept in dry, clean containers.

- **37.95.1003(5)** If the container in which the formula was purchased does not include a sanitized bottle and nipple, then transfer of ready-to-feed formula from the bulk container to the bottle and nipple feeding unit must be done in a sanitary manner in the kitchen. Bottles filled on the premises of the facility should be refrigerated immediately if not used and contents discarded if not used within 12 hours.

Interpretation:

- How is the formula prepared?
- All items (bottle, nipple, measuring devices, instruments used to bring bottles out of water, etc.) used to prepare the formula should be sanitized/sterilized prior to preparation of the formula.
- In the transfer process, the formula should go directly from the package to the sterilized bottle. The nipple and ring should be placed upon the bottle in manner, which does not break the sterility of the nipple and ring--in other words, an unclean hand should not touch the nipple. Can the provider demonstrate this process?
- Once bottles are filled, are they immediately stored in the refrigerator or given to the infant?
- The remains should be discarded after feeding if the child does not finish the bottle.

- **37.95.1003(6)** If bottles and nipples are to be used by the facility, they must be cleaned and sanitized using generally accepted means of sanitation such as washing in a dishwasher or by washing in hot water, rinsing, and boiling for one minute.

Interpretation:

- How are nipples and bottles sanitized?
- Can the provider demonstrate?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

19. BATHING

- **37.95.1004(1)** Bathing shall not be done routinely by the facility but if required:

Interpretation:

- Is bathing done routinely?
- Is there documentation from the parent giving the provider permission to bath the child?

- **37.95.1004(1)(a)** Infants and toddlers must be directly supervised when being bathed;

Interpretation:

- If bathing occurs, how does the provider supervise this child and the other children in the facility?
- What precautions, does the provider use to assure the child is never left unattended in the bathing area?

- **37.95.1004(1)(b)** Bathing materials shall be sanitized after bathing an infant or toddler;

Interpretation:

- Bathing materials--washcloth, towels, bath sponge, bath chair, etc.--are sanitized after each use?
- Are they cleaned using hot water and appropriate disinfectant?

- **37.95.1004(1)(c)** Nonallergenic soap shall be used;

Interpretation:

- What type of soap is used?
- Is it unscented, dye free, baby skin sensitive (like a baby bath, vs. an adult soap)?

- **37.95.1004(1)(d)** Arrangements shall be made so the infant or toddler cannot turn on hot water while being bathed. Water supply to bathing area will not be over 120 degrees F; and

Interpretation:

- What is the hot water temperature set at? Verify this by measuring the temperature with a thermometer.
- How does the provider ensure that the child cannot turn on the water while in the bathtub?
- How far away from the faucet is the child seated?
- Are there controls on the faucet to prevent children from turning it on?

- **37.95.1004(1)(e)** The bathing area shall be out of drafts and provisions should be made so the infant or toddler may be completely dried after a bath.

Interpretation:

- Where is the bathing area?
- Is it in a bathroom?
- Is it away from windows or doors where drafts exist?
- Is the child completely dried in the bathing area or moved to another location to be dried?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through interview with provider and staff.

20. SLEEPING

- **37.95.1005(1)** There shall be adequate opportunities for sleep periods during the day suited to the infant's and toddler's individual needs.

Interpretation:

- Are infants able to sleep according to their own sleep patterns? What are the sleep patterns of each infant?
- Have parents given the provider an indication of the child's sleeping patterns--approximate time of day and for how long?
- Is the provider respectful of the child's sleep pattern?
- Do they try to schedule naps differently?

- **37.95.1005(2)** Unless the parent has provided medical documentation from a health care provider ordering otherwise, infants shall be placed on their back and on a firm surface to reduce the risk of sudden infant death syndrome (SIDS).

Interpretation:

- How is the child put down to sleep?
 - Where do infants sleep? Infants should not be sleeping on couches or on adult/children beds. Infants need to be in cribs until such time they are safe on cots or mats.
 - If the infant is placed in any other sleep position besides his/her back, has the provider secured medical documentation regarding the necessity of this alternative sleep position? Does this documentation indicate a time limit for such alternative sleep position?
 - Parents occasionally want baby to sleep on his/her tummy. Providers must be advised that parents' wishes must be accompanied by medical documentation; otherwise, this request cannot be accommodated.
- **37.95.1005(3)** Each infant shall be provided with a crib or play pen for sleeping. At the discretion of the parent and provider, a cot or mat may be used once a child turns one year of age as long as a safe sleep environment is provided. Children one year of age through 18 months who are placed on a mat must have a signed permission statement in the file indicating that the parent has given permission for their child to be placed on a mat. In addition, a caregiver must remain with the child while they are sleeping.
 - (a) Infants and toddlers shall not be routinely allowed to sleep in a car seat, infant swing or other apparatus.
 - (b) Cot or mat surfaces may be of plastic or canvas or other material, which can be cleaned with detergent solution and allowed to air dry.

Interpretation:

- Is there a crib or portable crib/playpen available for each infant?
 - Is each crib in safe condition (i.e. approved by Consumer Product Safety Commission)?
 - Infants cannot share cribs.
 - If an infant falls asleep in a swing or other apparatus, they must be moved to a crib or portable crib/playpen.
 - If the child is between one and eighteen months old, has the parent given permission to have the child sleep on a cot or mat?
 - Is this permission documented?
 - How often are the mats cleaned and sanitized?
 - Does each child have their own designated cot or mat for each day?
 - Is the surface of the mat plastic or canvas?
 - What type of cleaner is used to sanitize the mat or cot?
 - Worker observation will determine if this requirement is met.
- **37.95.1005(4)** Cribs shall be made of durable, cleanable, nontoxic material, and have secure latching devices. Cribs shall have no more than 2 and 3/8 inches of space between the vertical slats. No later than December 28, 2012, all cribs must meet the requirements for full-size baby cribs and non full-size baby cribs as specified by the Consumer Product Safety Commission at 16 CFR part 1219 (2011) and 16 CFR Part 1220 (2011), incorporated by these references. A copy of the requirements for full-size baby cribs and non full-size baby cribs is available at <http://www.dphhs.mt.gov/earlychildhood/cribrequirements.shtml>, or by contacting the Montana Child Care Licensing Program at P.O. Box 202953, Helena, Montana 59620; Phone: (406) 444-2012.

Interpretation:

- When were cribs purchased? Does provider have a certificate of compliance for cribs?
 - Are the crib rails and sides easily cleaned? Is the surface material of the crib durable enough to withstand repeated cleaning?
 - Are the vertical slats no more than 2 and 3/8 inches apart? Workers shall measure using a measuring tape or stick or use of a pop can (if pop can, can fit between slats, slats are too far apart) to determine if this is met.
 - Does the crib mattress fit snugly against the sides of the crib?
 - Is the mattress covered with a waterproof cover/material, i.e., plastic/vinyl mattress pad?
 - Worker observation/testing will determine whether cribs meet federal compliance.
- **37.95.1005(5)** Mattresses must fit snugly to prevent the infant from being caught between the mattress and crib siderail. Crib mattresses must be waterproof and easily sanitized. Cribs, cots, or mats must be thoroughly cleansed before assignment to another infant or toddler.

Interpretation:

- Does the crib mattress fit snugly against the sides of the crib?
 - Is the mattress covered with a waterproof cover/material, i.e., plastic/vinyl mattress pad?
 - Worker observation/testing will determine.
- **37.95.1005(6)** Cribs, cots, or mats shall be spaced to allow for easy access to each infant and toddler, adequate ventilation, and easy exit. Aisles between cribs or cots shall be kept free of obstructions while cribs or cots are occupied. Use of stackable cribs for infants is permitted until infants reach one year of age or 26 pounds, whichever comes first.

Interpretation:

- Is there enough space between each crib, cot and mat? Can adult easily reach each child?
 - Could an adult easily exit with the child (either in arms or leading the child if the child is mobile) in the event of fire or other emergency?
 - Is the space adequate enough to allow each child proper air exchange?
 - Children should not be placed under tables or in closets for napping.
 - Worker observation/walk through as well as review of the fire escape plan should assist the worker in determining if the facility complies with this rule. Are there obstructions--boxes, other furniture, toys, etc.-- around the cots and cribs while in use?
 - If CCL observes infants using stackable cribs, CCL needs to ascertain the age and weight of the children who use the cribs. Provider should be able to easily inform the licenser. If there are questions, request the child's record to verify age.
 - Provider may want to keep closer age and weight records for children when stackable cribs are being utilized.
- **37.95.1005(7)** All pillows quilts, comforters, heavy blankets, sheepskins, bumper pads, stuffed toys, and other soft products shall be removed from the crib and play pen.
(a) If a lightweight blanket is used, the child's feet must be placed at the foot of the crib or play pen and the blanket must be tucked along the sides and foot of the mattress. The blanket should not come up higher than the child's chest.

Interpretation:

- Are any of these items observed? If so, request that they be immediately removed from the crib.
- These items should not be used even if requested by parents.

- Blankets if used should be lightweight fabric and must be placed at the foot of the crib or playpen and tucked along the sides of the foot of the mattress.
- Lightweight blankets are defined as receiving blankets or other blankets with the similar size and weight of receiving blankets.

- **37.95.1005(8)** Each infant and toddler shall have been provided by the parent with a clean washable blanket or other suitable covering for his/her use while sleeping. Each infant's and toddler's bedding shall be stored separate from bedding used by other children.

Interpretation:

- Does each infant have their own blanket or other covering?
- At what times can the infant use these items?
- Are they only used at sleeping time?
- Each item of sleep equipment (sheets, blankets) shall be assigned to a child and shall be used only by that child while he/she is enrolled in the facility. Children shall not share bedding--this means they are stored separately and not shared.

- **37.95.1005(9)** All cries of infants and toddlers shall be investigated.

Interpretation:

- The provider must check on each baby when they cry--they need to determine the cause of the infant's cry and act appropriately.
- If the infant is wet, they must be changed;
- If the infant is tired, then sleep activities will be initiated;
- If the infant is hungry then feeding should begin, etc.

- **37.95.1005(10)** The licensee or registrant of facilities licensed/registered after the enactment of these rules must receive training in an approved safe sleep curriculum before being granted approval for children under age two. Any caregiver who provides care to children under age two must receive training in an approved safe sleep curriculum within 60 days of hire. Caregivers who have not received the safe sleep training shall be supervised by an individual who has successfully completed the approved safe sleep curriculum in order for the caregiver to provide care to children under age two. Facilities licensed or registered before the effective date of these rules will have until July 31, 2013 to complete this training.

Interpretation:

- CCL can verify that safe sleeping training has been completed in the required timeline.
- Has provider and caregivers taken safe sleep training in the required timeline?
- Is there verification of staff training on ECP website?
- Caregivers must be supervised until they have completed the safe sleep training.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

21. ACTIVITIES

- **37.95.1011(1)** All infants shall have ample opportunity during each day for freedom of movement, such as creeping or crawling or rolling in a safe, clean, open, uncluttered area.

Interpretation:

- What is the schedule of activities for the infants?
- When infants are playing on the ground, are toys and equipment safe for their use? Are toys available and within their grasp?
- Is the area clean and unobstructed--no equipment or big toys in the way, the area is "open" and clear of boxes, harmful furniture, etc.-- to allow their freedom of movement?
- The area does not have items with sharp corners or hot surfaces such as exposed baseboard heaters or furnace vents that could harm the infants?
- If the area is carpeted, the carpets are vacuumed and free from small toys and items that could be swallowed?

- **37.95.1011(2)** An infant or toddler who is awake shall not spend more than 30 minutes of consecutive time confined in a crib, playpen, jump chair, or highchair.

Interpretation:

- What is the structure of activities for infants and toddlers?
- How much time does each infant spend in an activity?
- What other items besides the crib, playpen, walker, etc. does the provider have for the children's use?

- **37.95.1011(3)** Each infant and toddler shall have individual personal contact and attention by the same adult on a regular daily basis at least once each hour during non-sleeping hours. Examples of personal contact and attention include being held, rocked, taken on walks inside and outside the center, talked to, and played with.

Interpretation:

- Who are the assigned caregivers for each infant?
- What is their schedule of activities for that infant?
- How much and what kind of interaction does that adult have with that child?
- Do they rock the baby, do they play with the baby, take the baby on walks?

- **37.95.1011(3)(a)** There shall be sufficient staff so that an adult is always present and supervising.

Interpretation:

- What is the ratio?
- Are there enough caregivers in order to meet the needs of the children?
- Worker observation and discussion will determine the level of compliance.

- **37.95.1011(4)** There shall be provisions for the infant and toddler to safely explore and investigate the environment. There shall be both stimulation and time for quiet activity. Infants and toddlers shall be taken outside for some period during each day in good weather.

Interpretation:

- For babies who are mobile, there shall be appropriate and safe areas for them to explore--via crawling, walking, scooting, using a walker, etc.
- For immobile infants, there should be activities such as an adult walking with the baby, baby swings, exersaucers, etc. that allow the infant to visually see the environment. As the setting

allows, immobile infants shall--with appropriate supervision--be able to spend appropriate amounts of time (this depends upon the child's age) on the floor learning his/her environment through play.

- Infants will not be confined to high chairs, swings, etc. for more than 30 minutes at a time.
- The schedule of activities which should be written down, shall include times for stimulating play (as stated above) and quiet times that include such things as reading, listening to music and individual play. This schedule should also address appropriate activities and time for outdoor play based on the children's individual ages.

- **37.95.1011(5)** Each infant and toddler shall be allowed to maintain the child's own pattern of sleeping and waking period according to instructions from the parents.

Interpretation:

- Are infants able to sleep according to their own sleep patterns? What are the sleep patterns of each infant?
- Have parents given the provider an indication of the child's sleeping patterns--approximate time of day and for how long?
- Is the provider respectful of the child's sleep pattern?
- Do they try to schedule naps differently?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

22. OUTDOOR ACTIVITIES

- **37.95.1015(1)** Infants and toddlers shall be protected from draft and prolonged exposure to direct sunlight. With the parent's written permission, sun screen shall be applied to children over 6 months old when outdoor conditions dictate.

Interpretation:

- The outdoor area shall be protected from drafts.
- There must be appropriate shading to protect from prolonged exposure to direct sunlight.
- Does the provider have on file an OTC authorization form indicating permission to use sunscreen?
- If not, what are the parents' wishes for sun protection?

- **37.95.1015(2)** There must be an outdoor play area on the facility property. The play area must be fenced in accordance with ARM 37.95.121 and free of hazards which are dangerous to the health and safety of the children. Every time an infant or toddler is outdoors, they must be supervised by a caregiver.

Interpretation:

- For infants, the outside area shall be located closely to the facility and shall be fenced to prohibit the children from leaving the area.
- It shall be free from hazards--holes in the ground, inadequate and unsafe play equipment, toxic plants, small pea gravel (creates a choking potential), wasp nests and other vermin.
- Can the provider(s) visually see all the infants when outside?
- Caregivers must remain outdoors anytime an infant or toddler is outdoors.

- Can the infants be easily reached in the event of adult intervention?
- Worker observation will determine if this rule is met.

37.95.1015(3) Adequate protection against insects shall be provided.

Interpretation:

- Is the outdoor area free of wasp/hornets nests?
- Is the child able to use bug repellent sprays (for some children this is toxic—parent’s permission is necessary) to prevent insects from biting?
- If not, does the child have appropriate clothing that could prevent bugs from biting the skin--long sleeved shirt, pants?

37.95.1015(4) Provision shall be made for both sunny and shady activity areas.

Interpretation:

- While outside, infants shall be protected from excessive exposure to the sun.
- Sunlit areas and shaded areas shall be provided by means of open space and such things as tree planting or other cover in outdoor areas.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through interview with provider and staff.

NUTRITION/FOOD

23. SANITATION

37.95.708(8) All food shall be from an approved source and shall be transported, stored, covered, prepared and served in a sanitary manner to prevent contamination.

Interpretation:

- How does the provider prepare and serve food?
- Is it done in a sanitary manner?
- Is the food served to the children in a sanitary manner?
- Workers can verify that this requirement has been met through observation and review of the provider’s documentation concerning menus and menu planning.

37.95.708 (8)(a) Milk and other dairy products shall be pasteurized.

Interpretation:

- No use of fresh untreated/unpasteurized milk is allowed.

37.95.708 (8)(b) Use of home canned foods other than jams, jellies and fruits is prohibited.

Interpretation:

- Does the provider use home canned goods?
- Worker observation and inspection will determine if the requirement is met.
- The presence of canned goods does not preclude private use. They just cannot be used for child care purposes.

- **37.95.708 (8)(c)** Perishable foods shall be kept at temperatures above 140 degrees F or below 45 degrees F.

Interpretation:

- Are hot (like soups) foods served at a temperature of 140 degrees or above?
- CCL may use thermometers to test the temperature of hot foods while on site.
- Are cold foods (such as cold cuts) stored at 45 degrees or below?
- To test this, CCL will need to verify whether the refrigerator has a thermometer inside which indicates appropriate temperature of the foods contained within.
- What is the temperature when served?
- Cold foods should not set out at room temperature for extended periods of time.
- When served, the food should still be at 45 degrees.

- **37.95.708 (8)(d)** No persons with boils, infected wounds, respiratory diseases or other communicable diseases shall handle food or food utensils.

Interpretation:

- Are there persons with these conditions preparing and serving food to the children?
- Worker observation will determine if this rule is met.

- **37.95.708 (8)(e)** All food utensils shall be properly washed and rinsed after each usage. A domestic style dishwasher may be used if equipped with a heating element.

Interpretation:

- Is there an automatic dishwasher on the premise?
- If so, are the utensils and dishes washed daily?
- If no dishwasher, can the provider demonstrate that the dishes are cleaned using proper cleaning methods (hot water temp is appropriate, proper cleaner/soap used, etc.)

- **37.95.708 (8)(f)** Single service utensils may only be used once.

Interpretation:

- Once the single use utensil is used, it must be discarded.
- Cannot re-use single serve utensils even if they are washed.

- **37.95.708(9)** Folding of clean laundry must not take place on the same work surface used for sorting dirty laundry. Bedding shall be laundered when necessary and aired out periodically to prevent mildew.

Interpretation:

- Can the provider show the worker where the folding of laundry occurs?
- Is it separate from the area used to sort dirty laundry?
- How often does the provider launder bedding used by the children?
- Are the methods appropriate to prevent mildew, i.e., washing machine?

- **37.95.711(7)** Meal and snack service to children and the preparation of food by children shall be carefully supervised.

Interpretation:

- Does an adult directly supervise children when children are allowed to assist in meal preparation?

- **37.95.711(9)** Proper methods of handling, preparing, and serving food in a safe and sanitary manner shall be consistently implemented by the provider.

Interpretation:

- Can the provider demonstrate their understanding of proper food handling and preparation?
- Have they attended training in this area?
- Are they enrolled in the CACFP?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

- **37.95.711(1)** Nutritious meals and snacks must be provided to children in such quality and quantity to meet the national research council or the USDA child and adult care food program recommended dietary allowances for children of each age. Minimum nutritional requirements, age appropriate, will be supplied to the provider by the state or county health department.

Interpretation:

- These guidelines meet the National Research Council's guidelines.

- **37.95.711(2)** The above requirement in (1) shall be deemed to have been met if the provider provides nutritious meals and snacks as follows:
 - (a) Children in care for a continuous period of 5 hours to 10 hours shall be provided at least one meal appropriate to the time of day and two snacks; or
 - (b) Children in care for a continuous period of 10 hours or more shall be provided at least one meal every 6 hours and one snack between meals. The 6 hours requirement does not apply during the hours that the child is sleeping when night care is provided; or
 - (c) Children in care for 2 to 6 hours shall be provided one snack every 2 ½ hours.

Interpretation:

- Young children need be offered nutritious meals frequently as they may choose to eat well at any one time but may be uninterested in eating at another time.
- To ensure that the child's daily nutritional needs are met, small feedings should be scheduled over the course of a day.
- Snacks should be nutritious as they often are a significant part of the child's daily life.
- Does the provider have a written menu that includes information on meals and snacks for each day?

- **37.95.711(8)** Fresh drinking water shall be available to children and offered at frequent intervals.

Interpretation:

- What is the water source?
- How often are children offered water?
- CCL will validate through observation.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

25. SPECIAL DIET

- 37.95.711(3)** Special diet orders must be kept on file by the provider as submitted to the provider in writing by parents.

Interpretation:

- Are there children who have special diets due to allergies, sensitivities or parental desire?
- Does the provider have this information on file?
- Compliance is determined by worker observation of the information in the child's file.

- 37.95.711(4)** For the child requiring a rigid diet, food shall be brought from home and labeled clearly.

Interpretation:

- Is the child's food clearly labeled with his/her name, current date?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

TRANSPORTATION

26. BASIC REQUIREMENTS

- 37.95.132(1)** The provider shall obtain written consent from the parent(s) for any transportation provided.

Interpretation:

- Provider can use the Emergency Contact form or signed contract to obtain permission to transport children.
- Any travel restrictions, and use of personal car seats will be listed on the policy.
- Emergency transportation is NOT determined by whether this indicator is marked.

- 37.95.132(2)** The operator of the vehicle shall be at least 18 years of age and possess a valid Montana driver's license.

Interpretation:

- Is the vehicle operator 18 years of age?
- Verify with DOB and proof of current driver's licenses for all who transport the children.
- DMV record should also be consulted to determine if person should be transporting children.

- 37.95.132(3)** The passenger doors on the vehicle must be locked whenever the vehicle is in motion.

Interpretation:

- Utilize child proof locks that only allow doors to be opened from the outside when available.
- Can they demonstrate this?
- If the vehicle does not have child proof locks, how does the provider assure that the doors are locked and remain so while the vehicle is in motion?

- **37.95.132(6)** Children shall never be left unattended in a vehicle.

Interpretation:

- Children should never be left unattended in a vehicle even for a short amount of time (ie, caregiver running into school to get other children).
- Is there a provider with the children at all times when they are in the vehicle?
- Do the children accompany the provider?
- What is the process to unload the children from the vehicle? Does provider check each seat after all children have been unloaded? Is this documented?

- **37.95.132(7)** The back of pickup trucks must not be used to transport children.

Interpretation:

- What type of vehicle does the provider use for transportation?

- **37.95.132(8)(e)** An adult shall accompany each child to and from the vehicle to the child's home or the home authorized by the parents to receive the child.

Interpretation:

- How does the provider accommodate this transition?

- **37.95.132(9)** No child shall be left unattended in a vehicle.

Interpretation:

- Children should never be left unattended in a vehicle even for a short amount of time (ie, caregiver running into school to get other children).
- Is there a provider with the children at times when they are in the vehicle?
- Do the children accompany the provider?
- What is the process to unload the children from the vehicle? Does provider check each seat after all children have been unloaded? Is this documented?

- **37.95.141(5)** Prior to a child being enrolled or entered into a day care facility, the following information must be on file:
(d) An emergency consent form. This form must accompany staff when children are away from the day care site for activities.

Interpretation:

- Does staff take the Emergency Consent form with them on field trips or any other time when children and staff are away from the facility?
- Where is form kept? Does provider make copies of form?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through observation of vehicles used for transportation.
- CCL can determine compliance through interview with provider and staff.

27. CHILD PASSENGER SAFETY

- **37.95.132(4)** With the exception of public transportation that is not required by law to be equipped with safety restraints, no vehicle shall begin moving until all children are seated and secured in age and weight appropriate safety restraints, which must remain fastened at all times the vehicle is in

motion. Each child shall have a safety restraint. Children shall not share a safety seat or a safety restraint.

Interpretation:

- How many car seats are needed?
 - Does the provider have the required number of car seats?
 - How many children require just safety belts? Are there enough available in the vehicle?
 - Does each child have their own car seat or safety restraint?
 - What is the process the provider uses to assure that all children are properly restrained prior to the vehicle's movement?
 - Provider should have a written policy outlining the entire transportation process. This includes counting children prior to leaving and returning to the facility, ensuring that children are properly restrained and ensuring that children are removed from vehicle after they reach their destination. This policy is essential in ensuring that a child is not left in a vehicle or that a child is left somewhere such as a park.
- **37.95.132(5)** Children under four years of age may not be transported in a vehicle which does not provide age appropriate safety restraints or in a vehicle which cannot accommodate a car seat or a booster seat in a manner that conforms with National Highway Transportation Safety Administration recommendations.

Interpretation:

- Does provider transport children under 4 years old?
 - What type of vehicle is used for this transportation?
 - Can this vehicle accommodate car seats and boosters?
 - School buses are not meant to accommodate, nor can they be retro fitted with car seats and boosters. If buses are used, children under 4 cannot be transported in them.
- **37.95.132(8)** Facilities providing transportation for children under six years of age or children six years of age but weighing less than 60 pounds shall comply with the following requirements:
- (a) All vehicles shall be equipped with children's car seats or booster seats that meet federal Department of Transportation recommendations for the age and weight of the child being transported;
 - (b) Car seats or booster seats shall be fastened securely to the seat or to the floor of the vehicle. Children shall be secured with safety belts which are secured within the vehicle according to factory assembly;
 - (c) There shall be no more than one child in each car seat;

Interpretation:

- How many car seats are needed?
 - Does the provider have the required number of car seats?
 - How many children require just safety belts? Are there enough available in the vehicle?
 - Does each child have their own car seat or safety restraint?
 - What is the process the provider uses to assure that all children are properly restrained prior to the vehicle's movement?
- **37.95.132(8)(d)** There shall be one adult in addition to the driver for each four children under age two being transported and

Interpretation:

- How many infants are being transported?
- If only 3, then one provider is required.

- If there are 4 or more infants being transported then additional staff is necessary.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through observation of vehicles used for transportation.
- CCL can determine compliance through interview with provider and staff.

WRITTEN RECORDS

28. PARENT INFORMATION

- **37.95.115(1)** The following written information shall be made available to all parents:

- (a) A typical daily schedule of activities;
- (b) Admission requirements, enrollment procedures, hours of operation;
- (c) Frequency and type of meals and snacks served;
- (d) Fees and payment plan;
- (e) Regulations concerning sick children;
- (f) Transportation and trip arrangements;
- (g) Discipline policies; and
- (h) Department day care licensing requirements.

Interpretation:

- Are written policies available to parents?
- How is this information disseminated (ie, contract or otherwise?)

- **37.95.115(2)** Day care facility shall post a copy of the facility registration or license and the phone number of state and local quality assurance division offices in a conspicuous place. Parents should be encouraged to contact the division if they have questions regarding the license or the day care regulations.

Interpretation:

- Is the registration certificate posted? Is it easily seen?
- Are QAD's numbers posted? Are they easily seen?

- **37.95.150(1)** Each day care facility must post its license in plain view where it is readily viewable by parents dropping off or picking up children.

Interpretation:

- Does each facility have their own registration certificate and/or license?
- CCL can verify by observation.

- **37.95.711(5)** Menu plans shall be available to parent upon request.

Interpretation:

- How are menus available to parents?

- **37.95.715(1)** A written plan of daily activities and routines, in addition to free play, must be established. The plan must be flexible to accommodate the ages and needs of individual children and the group as a whole. It must be designed with intervals of stimulation and relaxation, and a balance between periods of active play and quiet play or rest.

Interpretation:

- Is there a written plan? Is it being met?

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.
- CCL can request demonstration in order to show compliance/understanding of regulation.

29. FACILITY RECORDS

- 37.95.106(4)** Before a regular one year registration certificate may be granted, the following shall be submitted by the applicant at the time of application and annually thereafter:
(d) A written fire and emergency evacuation plan. For registration certificate renewal there must also be documentation of 8 annual emergency evacuation practices, including when each drill took place and how long it took to evacuate everyone from the facility;

Interpretation:

- Does provider have the Fire Safety and Evacuation Plan available?
- Has the provider documented each drill on the form?

- 37.95.121(3)** Any pet or animal, present at the facility, indoors or outdoors, must be in good health, show no evidence of carrying disease, and be a friendly companion of the children. The provider is responsible for maintaining the animal's vaccinations and vaccination records. These records must be made available to the department upon request. The provider must make reasonable efforts to keep stray animals off the premises.

Interpretation:

- If there are pets on the premise of the day care facility, the provider should be able to show--by current vaccination records--that the pet is in good health.
- Additionally, the animal needs to be friendly and like being around children.
- If not, it is the provider's responsibility to contain the animal in an area inaccessible to the children attending the day care facility.

- 37.95.141(1)** The facility shall keep a daily attendance record of the children for whom care is provided.

Interpretation:

- Does the provider keep an attendance log? In what way?
- Parents sign in/sign out?
- Is there a record of daily attendance on each child?
- Does the record clearly show the days that each child attended care?
- Providers can use an electronic system but must have a process to document children in attendance. It is important that caregivers have a list of children so that they know how many children are in care and know which children are present in the event of an emergency.

- 37.95.141(2)** The facility shall have a master list of the name, address, and phone number of all children in their care and their parents.

Interpretation:

- Is there a master list? Is it complete?
- List can be written or typed but must be maintained on one list.
- Can it be made readily available to the department?
- Does the list contain name, address & phone # of children and parents?

- 37.95.141(4)** All records of the facility shall be made available to the department upon request.

Interpretation:

- Provider must make records available upon request.

- 37.95.141(5)** Prior to a child being enrolled or entered into a day care facility, the following must be on file on forms provided by the department:

(e) a record of each fire drill conducted pursuant to ARM 37.95.706, including who the drill, when the drill took place, how many adults and children were present, the time of day the drill occurred and how long it took to evacuate.

Interpretation:

- Does provider have the Fire Safety and Evacuation Plan available?
- Has the provider documented each drill on the form?

- 37.95.155(1)** The provider shall maintain all policies, records, and reports that are required by the department. These policies must be reviewed and updated annually by the facility.

Interpretation:

- Are the requirements as outlined in 37.95.115, 141, 155 and 160 met?
- Are the necessary documents reviewed annually by provider and parents? Are new contracts signed? New Emergency Contact forms signed? Medication authorizations signed as needed? OTC signed annually?
- Are medication authorization forms completed appropriately and properly maintained to protect child's privacy?

- 37.95.155(2)** The department must be given access to all records and an opportunity to copy the records whenever children are in care.

Interpretation:

- Does the provider and staff understand this requirement? Are they cooperative in giving the department access?
- Are records easily accessed by department staff?

- 37.95.702(6)** The provider shall maintain an up-to-date a master list with the name, address, and phone number of all children in care and their parents or guardians.

Interpretation:

- Is there a master list? Is it complete?
- List can be written or typed but must be maintained on one list.
- Can it be made readily available to the department?
- Does the list contain name, address & phone # of children and parents?

- 37.95.706(6)** A minimum of 8 fire drills must be conducted annually, at least 1 month apart as weather permits. Records, including who conducted the drill, when the drill took place, how many

adults and children were present during the drill, the time of day the drill occurred, and how long it took to evacuate everyone must be maintained at the facility and made available for review.

Interpretation:

- Has the provider conducted fire drills?
- How much time did it take?
- What was the method to get children out of the facility in a safe manner?
- Is the Fire Safety and Evacuation Plan completed?

- **37.95.708(5)** When a municipal water supply system is not available, a private system may be developed and used as approved by the state or local health department. Testing must be conducted at least annually by a certified lab to ensure that the water supply remains safe and the licensee or registrant shall provide laboratory results to the department during the licensing or relicensing process. Sanitary drinking facilities shall be provided by means of disposable single-use cups, fountains of approved design, or separate, labeled or colored glasses for each child.

Interpretation:

- What type of water system is used?
- If this is a private system, does the provider have documentation that the water has been tested and is safe?

- **37.95.711(6)** A record of food served shall be kept on file for at least 1 month.

Interpretation:

- Is there a hard copy record of food served for the last month?
- Worker observation of the record will determine compliance.
- Is menu updated if there is a change on the menu?

- **37.95.1005(11)** Providers must develop a written policy that describes the practices to be used to promote a safe sleep environment when children under age two are napping or sleeping.

Interpretation:

- Does the provider have a safe sleep policy?
- CCL observation can verify compliance.

- **37.95.1005(12)** All caregivers shall sign an acknowledgement indicating that they have read and understood the provider's policy outlined in (11).

Interpretation:

- Caregivers must sign policy to acknowledge they are aware of the policy.
- How does provider ensure that policy is being followed?
- It is important that all caregivers understand the safe sleep policy and follow the requirements for safe sleep in order to prevent SIDS related deaths.
- CCL can verify this rule has been met.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.
- CCL can request demonstration in order to show compliance/understanding of regulation.

30. CHILD FILE REVIEW

37.95.128(1)(a-d)

(1) A day care facility must have on file a health record form, provided by the department, concerning any special health risks that would affect other children. This must be obtained and kept on file by the provider prior to residence or enrollment of any child under age two at the day care facility. The health record form must be signed by:

- (a) A physician licensed to practice medicine in Montana pursuant to Title 37, chapter 3, MCA; or
- (b) A physician assistant-certified licensed to practice in Montana and practicing under a utilization plan approved by the board of medical examiners; or
- (c) A person licensed in Montana as a professional nurse and recognized by the board of nursing as a nurse practitioner or clinical nurse specialist; or
- (d) A naturopathic physician licensed under Title 37, chapter 26, MCA.

Interpretation:

- CCL can verify this rule has been met.

37.95.139(1) The parent(s) of each child admitted to the day care facility shall provide the name of the physician or health care facility the parent wishes to have called in case of an emergency.

Interpretation:

- Is this information supplied?
- In what way - parent statement, QAD/CCL113, Emergency Contact Form?
- Is there a release granting permission to contact child's physician?

37.95.140(1) Before a child under the age of five may attend a Montana day care facility, that facility must be provided with the documentation required by (4) that the child has been immunized as required for the child's age group against measles, rubella, mumps, poliomyelitis, diphtheria, pertussis (whooping cough), tetanus, and Haemophilus influenza type B, unless the child qualifies for conditional attendance in accordance with (9):

Age at Entry	Number of Doses-Vaccine Type	(*) varies depending on vaccine type used.
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under 2 months old - no vaccinations required
 by 3 months of age - 1 dose of polio vaccine; 1 dose of DTP vaccine; 1 dose of Hib vaccine
 by 5 months of age - 2 doses of polio vaccine; 2 doses of DTP vaccine; 2 doses of Hib vaccine
 by 7 months of age - 2 doses of polio vaccine; 3 doses of DTP vaccine; *2 or 3 doses of Hib vaccine
 by 16 months of age - 2 doses of polio vaccine; 3 doses of DTP vaccine; 1 dose of MMR vaccine administered no earlier than 12 months of age; *1 dose of Hib vaccine given after 12 or 15 months of age
 by 19 months of age - 1 dose of varicella vaccine; 3 doses of polio vaccine; 4 doses of DTP vaccine; 1 dose of MMR vaccine administered no earlier than 12 months of age; *1 dose of Hib vaccine given after 12 or 15 months of age

Interpretation:

- Immunizations must be on file before a child can attend the child care facility.
- CCL (or health department for centers) can verify this rule has been met.
- With the exception of Hib, religious exemptions are not allowed.

37.95.140(2) If the child is at least 12 months old but not less than 60 months of age and has not received any Hib vaccine, the child must receive a dose prior to entry.

- **37.95.140(6)** In order to continue to attend a day care facility, a child must continue to be immunized on the schedule described in (1) and must be immediately excluded from attendance in the day care facility if the child is not vaccinated on that schedule with all of the required vaccines, or does not have on file at the day care facility a record of medical exemption or a conditional enrollment form which indicates that no vaccine dose is past due.

Interpretation:

- Does child have immunizations on file?
- If not, Why?
- If for medical reasons, is there an exemption statement on file? If not, then provider must arrange to receive one or must exclude the child.
- If child has begun immunizations, but is behind in schedule, is there a conditional enrollment form?
- It is important that provider keep track of conditional enrollment form. If it is not being met, child may need to be excluded from care.
- Provider can contact local health department for assistance.

- **37.95.140(7)** Hib vaccine is not required or recommended for children 5 years of age and older.

Interpretation:

- CCL (or health department for centers) can verify this rule has been met.

- **37.95.140(8)** Doses of MMR vaccine, to be acceptable under this rule, must be given no earlier than 12 months of age and a child who received a dose prior to 12 months of age must be re-vaccinated before attending a day care facility.

Interpretation:

- CCL (or health department for centers) can verify this rule has been met.

- **37.95.140(9)** A child may initially conditionally attend a day care facility if:
 - (a) The child has received at least 1 dose of each of the vaccines required for the child's age;
 - (b) A form prescribed by the department documenting the child's conditional immunization status is on file at the day care facility and is attached to the department's Montana certificate of immunization (HPS-101); and
 - (c) The child is not past due for the next required dose (as noted on the conditional enrollment form) of the vaccine in question.

Interpretation:

- Does child have immunizations on file?
- If not, Why?
- If for medical reasons, is there an exemption statement on file? If not, then provider must arrange to receive one or must exclude the child.
- If child has begun immunizations, but is behind in schedule, is there a conditional enrollment form?
- It is important that provider keep track of conditional enrollment form. If it is not being met, child may need to be excluded from care.
- Provider can contact local health department for assistance.

- **37.95.140(10)** If a child in attendance at the day care facility, a resident of the day care facility, or a staff member or volunteer contracts any of the diseases for which this rule requires immunization, all individuals infected and all persons attending the day care facility who are not completely immunized

against the disease in question or who are exempted from immunization must be excluded from the day care facility until the local health authority indicates to the day care facility that the outbreak is over.

Interpretation:

- Local health authority is responsible for the contacting and follow-up.
- Master list with parent's information is necessary for this reason.

- **37.95.140(11)** The day care facility must maintain a written record of immunization status of each enrolled child and each child of a staff member who resides at the day care facility. The facility must make those records available during normal working hours to representatives of the department or the local health authority.

Interpretation:

- Does each child who is enrolled have a HES 101 on file?
- Is it properly signed?

- **37.95.140(12)** A child seeking to attend a day care facility is not required to have any immunizations, which are medically contraindicated. A written and signed statement from a physician that an immunization is medically contraindicated will exempt a person from the applicable immunization requirements of this rule.

Interpretation:

- Are there children who are not immunized due to medical reasons?
- Is the medication exemption form on file? This form should be updated by the physician annually.

- **37.95.140(13)** A child under 5 years of age seeking to attend a day care facility is not required to be immunized against Haemophilus influenza type B if the parent or guardian of the child objects thereto in a signed, written statement indicating that the proposed immunization interferes with the free exercise of the religious beliefs of the person signing the statement.

Interpretation:

- Religious exemption against HiB is allowed.
- Documentation must exist in child's file regarding this.

- **37.95.141(5)** Prior to a child being enrolled or entered into a day care facility, the following information must be on file:
 - (a) written information on each child explaining any special needs of the child, including allergies;
 - (b) a release or authorization of persons allowed to pick up the child;
 - (c) necessary medical forms, including all medication authorization and administration logs, signed and updated immunization records and the names of emergency contact persons; and
 - (d) an emergency consent form. This form must accompany staff when children are away from the day care site for activities; and

Interpretation:

- Is there info on each child?
- How is it documented?
- Is the Emergency Consent form completed?
- Is the provider aware of specific health needs (special needs, allergy issues, etc.) for the child(ren)?
- Does the provider know who is allowed to pick up child?

- Does staff take the Emergency Consent form with them on field trips?

- **37.95.141(6)** The information supplied in (5)(a) through (d) must be maintained on forms provided by the department and must be signed by the parent or guardian.

Interpretation:

- Is information available for review on department forms?

- **37.95.1003(1)** An individualized diet and feeding schedule shall be provided according to a written plan submitted by the parents or by the infant's physician with the knowledge and consent of the parents, guardian, or placement agency. A change of diet and schedule shall be noted on each infant's daily diet and feeding schedule.

Interpretation:

- Is there a written menu plan for each infant?
- Where is this plan located?
- Does all staff know about this plan?
- Is this plan written by the parents?
- This information shall be contained on the Infant Feeding Schedule form, (this form is available on department's website) but could also be a separate document depending on the child's diet needs. What is the feeding schedule for each child?
- How often is the child fed?
- Does this concur with the parents feeding schedule?
- Are changes in feeding noted on each child's daily activity schedule?

Compliance Determination:

- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

31. MEDICATION FILE

- **37.95.141(3)** If medications are administered at the facility, the facility shall maintain a medication administration log.

Interpretation:

- Are medications administered?
- Is there a completed medication authorization form on file for each medication?
- CCL can verify rule is met.

- **37.95.181(4)** If the provider/facility elects to administer medication to children, the provider/facility must maintain the following documentation on site:

(a) A medication record which includes:

- (i) the written authorization of the parents for the caregiver to administer medication;
- ii) the prescription by a health care provider if required; and
- (iii) a medication administration log.

Interpretation:

- For each child for whom medication has been administered, is this information contained in the medication record?
- The medication record includes:

- Written/signed authorization;
- Prescription or OTC authorization form;
- Administration Log.
- Does the administration log record the date and time the medication is to be given? The route medication is given?
- Is the administration log signed by the person administering the medication?
- Who actually administers the medications? Is there more than one person? Does the facility appoint one person to administer medication to avoid confusion and inadvertent administering of the medication?

□ **37.95.181(4)** If the provider/facility elects to administer medication to children, the provider/facility must maintain the following documentation on site:

(b) a written medication administration policy which includes at a minimum:

i) types of medication which may be administered; and

(ii) medication administration which may be administered; and including the route of medication , the amount of medication given, and the times when medication is to be administered; and

Interpretation:

- Does the provider have a written administration policy?
- Does the provider require parents to read and understand this policy? Does the provider require parents to sign the document (or the contract) indicating they understand the policy and any restrictions contained within it?
- How are caregivers trained on this policy?

□ **37.95.181(4)** If the provider/facility elects to administer medication to children, the provider/facility must maintain the following documentation on site:

(c) A health care and medication plan for children who may have special health care needs or those requiring medication for chronic health conditions which has been approved by a health care provider licensed in Montana.

Interpretation:

- Beyond the medication administration authorization, are there other documents (medication or otherwise) on file to assist the provider in attending to children's special health needs? For example, special health plans are maintained for children with asthma, diabetes, seizures or other health conditions that require on-going medication administration or specific instructions in order to meet a child's health needs. Children w/ special health needs often have an ACTION PLAN document which will highlight issues, define actions and proscribe steps to take to protect the child's health.
- Is there medical documentation or documentation from a medical person (doctor, Respiratory therapist, mental health therapist) regarding instruments use (such as a nebulizer, feeding tube), activities needed to protect the child's mental health etc.?
- Does the provider understand the information provided?
- If the child's condition requires equipment, does the provider understand how to use the medical equipment? Are they comfortable in doing so?
- The Special Needs Health form must be signed by the individual prescribing the medication, special equipment or specific steps that must be taken to protect the child's health needs.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.
- CCL can request demonstration in order to show compliance/understanding of regulation.

32. CAREGIVER FILE REVIEW

- **37.95.160(1)** The provider shall maintain records regarding each care-giver which include:
 - (a) a record of training and verifiable experience;
 - (b) results of a criminal and protective services background check;
 - (c) personal statement of health and verification of CPR and first aid; and
 - (d) immunization records that establish compliance with ARM 37.95.140

Interpretation:

- Does the provider maintain a record/file on each employee?
 - Is there an application for employment that shows experience/training? Did the provider verify that experience? In what way?
 - Is this information (personal statement of health and verification of CPR and first aid) contained w/in that file? In what way?
 - Is the information (immunization record) current and up to date?
- **37.95.160(2)** The facility shall maintain a current list of staff that specifies each staff person's legal name, position, age, residential and mailing addresses, and phone numbers.

Interpretation:

- Is the staff list current and up to date?
 - Does the list include the information concerning name, position, address phone numbers and age?
 - Is this list easily obtained?
 - How does the provider update this list when new staff are hired?
- **37.95.162(1)** The provider and all care-givers at any day care facility must each verify that they have successfully completed a minimum of at least eight hours of approved education/training annually, unless otherwise specified in these rules, within the 12 months prior to license/registration expiration or the license/registration anniversary date.

Interpretation:

- Does each caregiver, who works over 160 hours per year, have verifiable training through ECP or via college transcripts?
 - Has the training occurred during the 12 month license span?
 - New employees have a full year from date of hire to complete the 8 hours. After the first year, the training must coincide with the license year.
- **37.95.162(2)** Training may be obtained from the department or other department approved professional child care education and development programs offered:
 - (a) by national, state, or local child care organizations;
 - (b) by institutions of higher education that are regionally accredited; or
 - (c) through the successful completion of college level course work in early childhood areas or child development.

Interpretation:

- Training approval is primarily conducted through the Early Childhood Project. Verification of training approval and the individual's training record is found at: <http://mtecp.org/>
- College coursework is allowable, and transcripts must be submitted.
- College coursework must be from colleges and universities that are regionally accredited.

- **37.95.162(3)** Approved education and training must relate to the Montana Early Care and Education Knowledge Base and must fall within the following categories:
 - (a) personal attributes/characteristics;
 - (b) health, safety, and nutrition which may include training on prevention of sudden infant death syndrome (SIDS) and medication administration;
 - (c) child growth and development;
 - (d) environmental design;
 - (e) child guidance;
 - (f) family and community partnerships;
 - (g) program management;
 - (h) curriculum;
 - (i) observation and assessment;
 - (j) professionalism; or
 - k) cultural and developmental diversity.

Interpretation:

- All training approved through ECP must meet one or more of these categories:
- Training offered outside of the R&R arena can be approved, but contact by the provider with staff from ECP will need to be done and the appropriate approval sought, before the Department can consider the coursework toward the required training/education hours.

- **37.95.162(4)** With the exception of volunteers, any person who provides care to children in a day care facility for at least 160 hours a year is required to successfully complete eight hours of approved education or training annually.

Interpretation:

- How does the provider inform the department of this?
- Provider may need to submit timesheets to verify the number of hours the person has worked.

- **37.95.184(2)** Every employee, volunteer, or resident at a day care facility must:
 - (c) Provide documentation of complete measles, mumps, and rubella immunizations and a tetanus and diphtheria booster within the 10 years prior to commencing work, volunteering, or residing at the day care facility.

Interpretation:

- Does the staff person have verification of MMR and Td (within 10 years)?
- This information must be submitted to the department before the individual can be approved.
- The department does not allow for religious exemptions.

- **37.95.703(2)** The provider and all staff, including care-givers, aides, volunteers, kitchen and custodial staff, and persons over age 18 residing in the day care facility or staying in the facility on a regular or frequent basis, must obtain a completed criminal background check, a completed child protective services check, and a statement of health. For those persons who are considered care-givers, this information must be completed before providing direct unsupervised care to the children attending the day care facility. The director or provider/owner of the facility is responsible for ensuring these reports and other pertinent information are completed and submitted to the department within 15 actual days of the care-giver providing care.

Interpretation:

- Is the provider and staff free from a disqualifying CPS or DOJ record?
- This is to be verified by a comprehensive background check.

- **37.95.703(7)** The provider must hold current course completion cards in infant, child and adult CPR; infant choking response and standard first aid. Course completion means direct instruction which includes the practice and demonstrated applications of CPR methods as taught by instructors from accredited entities.

Interpretation:

- Has the provider submitted course completion of CPR and first aid?
- Infant, Child, and Adult CPR? Must cover all three groups.
- Has the course been taught by an accredited entity?
- On-line CPR/first aid course are not accepted.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.
- CCL can request demonstration in order to show compliance/understanding of regulation.

33. FIRST AID REQUIREMENTS

- **37.95.183(1)** Each provider shall adopt and follow written policies for first aid consistent with recommendations from the American Red Cross. These policies must include but are not limited to:
(a) procedures for handling medical emergencies, including calling the Emergency Montana Poison Control Center at 1 (800) 222-1222 when a child is suspected of having ingested any poisonous or toxic substance; and
(b) directions for calling parents or someone else designated as responsible for the child when a child is sick or injured.

Interpretation:

- Is the poison control number clearly posted by each phone in the facility or centrally located in facility?
- Provider must have a written first aid policy.
- How are caregivers trained in this policy? How does provider ensure that caregivers follow policy?

- **37.95.183(6)** A notation of all injuries must be made on the child's medical record including the date, time of day, nature of the injury, treatment, and whether the parent was notified.

Interpretation:

- Does the provider keep an injury log or notes?
- Is the information contained within the log understandable? Does it properly follow a course of action?
- Are parents provided a copy? It is important that confidentiality is maintained if multiple children are mentioned in the injury log.
- A sample injury log is available on the Child Care Licensing website.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.
- CCL can request demonstration in order to show compliance/understanding of regulation.

ADMINISTRATIVE RECORDS

34. LICENSE CERTIFICATE

37.95.146

- (1) The registration certificate or license is not transferable to another operator or site.
- (2) A license or registration is valid only for the person and premises for which it was issued. A license or registration may not be sold, assigned, or transferred.

Interpretation:

- Does the certificate that is posted pertain to this particular site/location?
- If a provider moves to another location, the provider must submit a Change of Address application before moving to the new location.
- The license/registration may be lapsed if the application is not completed before the provider moves.

- 37.95.146(3)** Upon discontinuance of the operation or upon transfer of ownership of the facility, the license or registration certificate must be physically returned to the department within ten working days.

Interpretation:

- Has the department received the certificate from provider when they closed?

- 37.95.149(1)** Separate registration certificates and licenses shall be required for programs maintained on separate premises, even when operated by the same provider.

Interpretation:

- Does the certificate that is posted pertain to this particular site/location?

- 37.95.153(1)** The department must be notified of any changes, including changes in staff, changes in the category of children in day care, or changes to the day care property, that would affect the terms of the registration or licensure.

Interpretation:

- Have staff members or any new individuals in the home been approved by department?
- Are the numbers of children present consistent with the number listed on certificate?

- 37.95.165(1)** The provider shall provide the department with any change in the provider's mailing address within 10 days of the change.

Interpretation:

- If the mailing address is changed, the Change of Address application must be submitted within 10 days.

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

35. FACILITY REQUIREMENTS

- **37.95.117(1)** Any day care facility which operates a day care program in connection with another non-day care program on the same premises must have separate staff and separate space for each program. However, staff and space may be shared for janitorial, maintenance, cooking, or other support services.

Interpretation:

- Is there another program (other than a day care program) contained within the same structures as the day care?
- If so, are there separate staff? Do the two programs mix?
- Are there shared areas?
- How do the programs schedule the shared areas so that the two programs do not conflict?
- In such situations, is it advantageous for the day care children to interact with the other program (day care or elder care facility)?
- If so, how do the programs ensure the safety of all?
- How are janitorial, maintenance and support handled?
- Is this reasonable to ensure safety?

- **37.95.117(2)** Children attending the facility for day care shall not come in contact with other persons who are receiving care in the facility unless the provider can prove to the department's satisfaction that those persons will not pose any threat to the health, safety and well-being of the children in day care.

Interpretation:

- How does the provider ensure that children do not come in contact with others who are receiving other forms of care?

- **37.95.117(3)** If multiple programs, including multiple day care programs or facilities in the same building, increase the number of people regularly in the building to more than 12 individuals, all fire, safety and sanitation requirements which may be impacted must be complied with by the day care facility.
(a) Multiple day care group homes which are currently operating under a "double group" registration within a single structure will have 3 years or until September 30, 2003, to either upgrade to center status and meet all center requirements, or relinquish one group registration and limit the number of children accordingly.

Interpretation:

- Are there more than 12 people in the building?
- If day care is housed with another organization, this may very well be true.
- If so, then all fire and sanitation regulations must be verified and met by inspection reports, regardless of license/registration type.
- CCL will make determinate on what can be allowed based on information provided by provider and other entities such as city, fire, etc.

- **37.95.117(4)** Persons, corporations or organizations may be licensed or registered for more than one day care facility if facility sites, staff, and space are completely separate from one another.

Interpretation:

- Can the worker determine by observation that sites and staff are separate?
- Does the facility share space?

- **37.95.117(4)(a)** If the day care facility is housed in a private single-family living structure, the structure can only obtain one registration or license.

Interpretation:

- Child care facilities housed in a residential structure can only have one (1) registration.

- **37.95.117(4)(b)** If the multiple program day care facility is in a non-residential structure, and is owned by the same entity or person it will be licensed as a center and will be required to meet all center regulations.

Interpretation:

- If the multiple day care facility is contained in a non-residential building (commercial space, mall, etc.) it must be categorized as a center and meet all requirements of centers.

- **37.95.117(4)(c-e)**

(c) If more than one day care program exists in one retail or commercial structure, and there are separate owners or entities of each program, the department will grant individual registrations or licenses.

(d) If the day care facility is contained in a multi-family structure, such as an apartment building, the structure will be allowed to house multiple day care facilities that meet the requirements of (1) and (2) above.

(e) If the facility is licensed or registered as a day care facility, but also serves as a foster care home, the department's child and family services (CFS) regional administrator and quality assurance division (QAD) must approve the dual license or registration.

Interpretation:

- Child care facilities, which can occur in apartment buildings as long as they meet facility and outdoor requirements may be registered as either as a family or group child care facility but may not share staff and space.
- If a common space (playground) is used, providers must make arrangements so that only one group uses the space at a time.

- **37.95.154(1)** An authorized representative of the department may inspect a facility and associated property without prior notice to the owner or staff of the facility whenever the department considers it necessary and any time children are in care.

Interpretation:

- Does provider allow access to CCL?

- **37.95.708(4)** No provider shall actively operate another business in the facility during the time the children are present for day care services.

Interpretation:

- Does the provider operate another business, which occurs during the same hours as the day care? (Mary Kay, pet grooming, accounting, etc.)

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.

36. REGISTRATION/LICENSE PROCESS

37.95.106(1)(2)

(1) Any individual, agency, or group may apply for a license to operate a day care center or may apply for a registration certificate to operate a family day care home or group day care home. Applications may be obtained from the Department of Public Health and Human Services, Quality Assurance Division, Licensure Bureau, P.O. Box 202953, 2401 Colonial Drive, Helena, MT 59620-2953.

(2) Applications for a license or registration certificate by Indians residing on Indian reservations must follow the requirements of 52-2-722, MCA.

Interpretation:

- Does the facility have a licensed or registration certificate?
- Is the facility on a reservation?

37.95.106(4)(a-e)

(4) Before a regular one year registration certificate may be granted, the following shall be submitted by the applicant at the time of application and annually thereafter:

(a) A DPHHS personal statement of health form for each care-giver, aide, or volunteer who has direct contact with the children in care;

(b) Proof of current fire and liability insurance coverage for the provision of day care in the home;

(c) A criminal background and child and adult protective services check on the provider or staff, including care-givers, aides, volunteers, kitchen and custodial staff, and persons over age 18 residing in the day care facility prior to any services being provided by an individual covered by this requirement;

(d) A written fire and emergency evacuation plan. For registration certificate renewal there must also be documentation of 8 annual emergency evacuation practices, including when each drill took place and how long it took to evacuate everyone from the facility; and

(e) Any such other information, which may be requested by the department.

Interpretation:

- CCL will determine whether facility meets approves once all items are submitted.

37.95.106(5) Applications for renewal shall be made by the provider at least 30 days prior to expiration of the license or registration certificate.

Interpretation:

- Did the provider get their renewal within 30 days?

37.95.161(1) A satisfactory criminal background, motor vehicle, and child and adult protective services check is required for each day care provider, on all staff, including caregiver, administrative staff, aides, volunteers, kitchen and custodial staff, and all persons over the age of 18 residing in the day care facility or who stays in the day care facility regularly or frequently.

Interpretation:

- Do staff records show that this has been done?
- Are the results acceptable? Does the provider know which crimes are disqualifiers?
- CCL will notify person with record and discuss further action with supervisor.

37.95.161(2) If the provider, staff member, volunteer, or resident has always lived in Montana, a Montana based criminal background check will be conducted based upon a name based criminal records check.

Interpretation:

- Was a name based check performed on each staff person?
- Are these records properly maintained?
- Are the results acceptable? Does the provider know which crimes are disqualifiers?
- CCL will notify person with record and discuss further action.

- **37.95.161(3)** If the provider, staff member, volunteer, resident of the facility, or any person who regularly or frequently stays in the facility, has lived outside of Montana for any portion of the previous 5 years, that person must submit a completed fingerprint card so that a fingerprint based criminal records check can be requested.

Interpretation:

- Among the staff, who if any has lived out of state in the last 5 years? How does the provider know this? Does the employment application ask this? Or is it known from the ROI?
- Did these persons submit fingerprints?
- Have the results come back? Does the history indicate a disqualifying background?

- **37.95.161(4)** If an applicant has lived in states other than Montana, a check will be made of the violent offender and criminal history registries if this information is available for states in which the applicant has lived.

Interpretation:

- Is there verification that these other registries were checked? In what way?

- **37.95.161(5)** If after 45 days, the department has been unable to obtain results of a criminal records check for an applicant who has lived in Montana for at least five years, the applicant must sign an affidavit attesting to his lack of criminal history or to the details of existing criminal history. The affidavit will be accepted in lieu of receipt of results from a criminal history check.

Interpretation:

- There may be times when a person cannot obtain readable fingerprints. In this case, if attempts to gain criminal information using fingerprints fail, the applicant will sign an affidavit and a State/Federal name based check will be performed.

- **37.95.161(6)** An applicant who has not lived in Montana for at least five years cannot be licensed without receipt of results of a criminal records check from every state in which the applicant has lived since the age of 18.

Interpretation:

- Licensure or approval cannot be made until this information is obtained.
- If the person has lived out of state w/in the last five years, an FBI fingerprint check will be conducted.

- **37.95.161(7)** An annual name based criminal records check for all providers, all staff, including caregivers, administrative staff, aides, volunteers, kitchen and custodial staff, and persons residing in the day care facility, is required for relicensure.

Interpretation:

- Criminal background checks must be conducted for all staff over the age of 18 before a facility will be renewed.

- **37.95.161(8)** Persons formerly licensed as day care providers will be treated as new applicants if the former provider has not been licensed for a period of more than one year or if the provider has lived out-of-state for any period of time since being licensed in Montana.

Interpretation:

- Has the provider been out of the 'field' for one or more years?
- Have they lived out of state since being licensed? If yes, they must submit fingerprint cards.

- **37.95.161(9)** A name based check for criminal records will be used for applicants who have lived in Montana since the expiration of their previous license or registration if it has been less than one year since the expiration of the license.

Interpretation:

- Fingerprint checks will be done only once, unless the person has moved out of state since the last licensure. Otherwise, name based checks are done upon renewal of the license.

- **37.95.703(1)** The provider and all persons responsible for children in the day care home must:
 - (a) Be at least 18 years of age;
 - (b) Demonstrate they are physically, emotionally, and mentally capable of performing the essential function of their position with or without reasonable accommodations;
 - (c) Be free of communicable disease;
 - (d) Have met the immunization requirements of ARM 37.95.140; and
 - (e) Demonstrate they are of good moral character.

Interpretation:

- Verify through background check and interview with provider that no one under 18 is left in charge of children.
- To determine if the provider is free from communicable disease, we must verify immunization status.
- Statement of Health and 33-A will also provide additional information.
- "Good moral character" is defined as "a personal history of honesty, trustworthiness, and fairness; a good reputation for fair dealings; and respect for the rights of others and for the laws of this state and nation."
- The department primarily uses the results from the CPS or DOJ record to make this determination.

- **37.95.703(3)** The provider, or an approved care-giver designated by the provider, shall be responsible for the direct care, protection, supervision, and guidance of the children through active involvement or observation in group and family day care facilities.

Interpretation:

- How does the provider assure compliance with this rule?
- Is supervision mainly observation or actually engaging?
- What about when children are outside?
- How does provider handle everyday distractions?

- **37.95.703(4)** The provider shall attend a basic day care orientation or its equivalent provided or approved by the department within the first 60 days of certification. This orientation must include the following areas:

- (a) health;
- (b) safety;

- (c) child development/well being;
- (d) discipline/guidance
- (e) nutrition/food safety; or
- (f) business aspects of a child care business.

Interpretation:

- Orientation is offered through the CCR&R's at least quarterly.
- Can the provider indicate info learned in these areas?
- What is the method of verification?

- 37.95.703(6)** The provider and all care-givers must annually verify that they have met the training requirements set out in (37.95.162).

Interpretation:

- All training is to be approved through ECP or via college transcripts.
- Does the database at ECP have record of the providers training for the year?
- Is this training during the designated license year?
- If transcripts are used, is the course work applicable? Staff from ECP can assist the department in assessing this if transcripts are submitted.

- 37.95.718(4)(e)** Day care facilities providing 2 shifts of 12-hour care may be granted 3 hours of overlap care for each 12 hours of continuous care upon the written approval of the department representative.

Interpretation:

- Has the department approved this?
- Is it clearly stated on the certificate for each 12-hour shift

Compliance Determination:

- CCL can determine compliance through observation of the areas listed above.
- CCL can determine compliance through record review.
- CCL can determine compliance through interview with provider and staff.